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**THESIS**

**CHALLENGES TO DEMOCRACY IN LATIN AMERICA:  
THE CASE OF VENEZUELA UNDER HUGO CHAVEZ**

by

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March 2001

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THE CASE OF VENEZUELA UNDER HUGO CHAVEZ**

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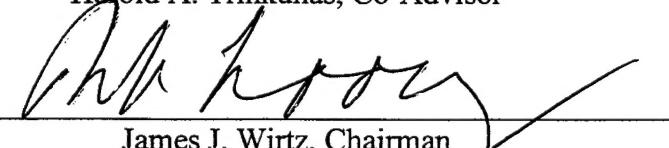
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## ABSTRACT

This thesis examines the actions of democratically elected leaders perceived to create threats to democracy. These leaders are often political outsiders who come to power after established politicians and the “traditional” way of conducting democratic politics have been discredited. Once in power, some of their actions are seen as nonconforming with established democratic norms. This thesis investigates the areas where setbacks and major threats to democracy have occurred in Venezuela and how the international community might respond most effectively to such threats.

This thesis advances four definitions of democracy drawn from the relevant literature, electoral, delegative, liberal, and substantive. It then examines the actions of the government on the different dimensions of democracy set forth by those definitions: the holding of free and fair elections, respect for human rights and civil liberties, a functioning system of checks and balances, and subordination of the military to civilian rule. Although the Chavez regime conforms to the minimal conditions of an electoral democracy, it is shown to fall short of accepted standards of liberal democracy. It also falls short of the vision of participative democracy advanced by President Chavez himself. This thesis concludes by offering policy recommendations on how to deal with these regimes.

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## GLOSSARY

<b>AG</b>	Fiscal General/Attorney General
<b>ALCASA</b>	Aluminios del Caroni, S.A./ Aluminum Company of Caroni – State Aluminum Company
<b>AN</b>	Asamblea Nacional/National Assembly
<b>ANC</b>	Asamblea Nacional Constituyente/National Constituent Assembly
<b>ATPA</b>	Tratado de Preferencia Arancelaria Andina/Andean Trade Preference Act
<b>BDUs</b>	Uniforme de Campaña/Battle Dress Uniform
<b>CIDH</b>	Comision Inter-Americana de Derechos Humanos/Inter-American Human Rights Commission
<b>CIOSL</b>	Confederacion Internacional de Organizaciones Sindicales Libres/ Confederation of Free Labor Unions
<b>CITGO</b>	CITGO Compañía de Petroleo/CITGO Petroleum Company
<b>CIVITAS</b>	Instituto para el estudio de la Sociedad Civil/Institute for the Study of Civil Society
<b>CNE</b>	Consejo Nacional Electoral/National Electoral Council
<b>COPEI</b>	Comité Pro-Electores Independientes/Committee for Independent Electors-Social Democrat Political Party
<b>COPP</b>	Codigo Organico Procesal Penal/Organic Criminal Procedures Code
<b>CTV</b>	Confederación de Trabajadores de Venezuela/Venezuelan Confederation of Workers
<b>CVG</b>	Corporación Venezuela Guyana/Venezuelan Corporation Of Guyana
<b>CSJ</b>	Corte Suprema de Justicia/Supreme Court of Justice
<b>DIM</b>	Dirección de Inteligencia Militar/Military Intelligence Direction

<b>DISIP</b>	Dirección de Servicios de Investigación y Protección / State Security Police
<b>FBT</b>	Fuerza Bolivariana de Trabajadores/Bolivarian Workers Force
<b>ILO</b>	Organizacion Internacional de Trabajadores/International Labor Organization
<b>LOFAN</b>	Ley Orgánica de la Fuerza Armada Nacional/Venezuelan Armed Forces Organic Law
<b>MAS</b>	Movimiento al Socialismo/ Movement to Socialism (Political Party)
<b>MBR-200</b>	Movimiento Bolivariano Revolucionario 200/ Revolutionary Bolivarean Movement 200
<b>MCJ</b>	Codigo de Justicia Militar/Military Code of Justice
<b>MIJ</b>	Ministerio de Interior y Justicia/Interior and Justice Ministry
<b>MOD</b>	Ministro de la Defensa/Minister of Defense
<b>MVR</b>	Movimiento Quinta República/Movement Fifth Republic (Political Party)
<b>NED</b>	Fonda Nacional para la Democracia / National Endowment for Democracy
<b>NDI</b>	Instituto Nacional Democrático / National Democratic Institute
<b>NGO</b>	Organizacion No Gubernamentales/ Non-governmental Organizations
<b>NSC</b>	Consejo de Seguridad Nacional/National Security Council
<b>OAS</b>	Organizacion de Estados Americanos/Organization of American States
<b>PJ</b>	Primero Justicia/ First, Justice (Political Party)
<b>PDVSA</b>	Petroleos de Venezuela S.A./Oil Company of Venezuela
<b>PP</b>	Polo Patriotico/Patriotic Pole (Political Party)

<b>PROVEA</b>	Programa Venezolano de educacion-Accion en Derechos Humanos/Venezuelan Program of Action and Education in Human Rights
<b>SIDOR</b>	Siderurgico del Orinoco/
<b>SIP</b>	Sociedad Inter- Americana de Prensa/Inter-American Press Society
<b>TO</b>	Teatro de Operaciones/Theater of Operations
<b>TSJ</b>	Tribunal Supremo de Justicia/Supreme Justice tribunal
<b>VENAMCHAM</b>	Camara Venezolana-Americana de Comercio/Venezuelan-American Chamber of Commerce
<b>UCV</b>	Universidad Central de Venezuela/Central University of Venezuela
<b>USAID</b>	Agencia para el Desarollo Internacional de los Estados Unidos/ U.S. Agency for International Development
<b>USIS</b>	Servicio de Informacion de los Estados Unidos/United States Information System
<b>USB</b>	Universidad Simon Bolivar/Simon Bolivar University

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## EXECUTIVE SUMMARY

This thesis examines the actions of democratically elected leaders perceived to create threats to democracy. These leaders are often political outsiders who come to power after established politicians and the “traditional” way of conducting democratic politics have been discredited. Once in power, some of their actions are seen as nonconforming with established democratic norms. This thesis investigates the areas where setbacks and major threats to democracy have occurred in Venezuela and how the international community might respond most effectively to such threats.

This thesis advances four definitions of democracy drawn from the relevant literature, delegative, liberal, and substantive. It then examines the actions of the government on the different dimensions of democracy set forth by those definitions, elections, human rights and civil liberties, checks and balances, and militarism. Since coming to power President Chavez has been conducting a massive experiment to change the political space and culture of Venezuela. He has called numerous elections and referenda, convoking a constitutional assembly, which eventually rewrote a new constitution. The constitution centralizes power in the figure of the president in many ways. President Chavez, his loyal followers or his party control all governmental branches of power, making difficult to provide the necessary checks and balances necessary in any democracy. Although the Chavez regime conforms to the minimal conditions of an electoral democracy, it is shown to fall short of accepted standards of liberal democracy. It also falls short of the vision of participative democracy advanced by President Chavez

himself. This thesis concludes by offering policy recommendations on how to deal with these regimes.

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## I. INTRODUCTION

### A. OBJECTIVE

This thesis examines the actions of democratically elected leaders perceived to create threats to democracy. These leaders are often political outsiders who come to power after established politicians and the “traditional” way of conducting democratic politics have been discredited. Once in power, some of their actions are seen as nonconforming with established democratic norms. This thesis investigates the areas where setbacks and major threats to democracy have occurred in Venezuela and how the international community might respond most effectively to such threats.

### B. BACKGROUND

Venezuela has long been considered a bastion of democracy in Latin America. In fact it was, for the longest time, considered the antithesis of stereotypical Latin American polities. It had two very strong political parties, a large middle class, sound and stable political institutions, vast oil reserves, and a respected, apolitical military. All this has changed.

In Venezuela, unequal social conditions, out of control government corruption and worsening economic conditions began a progressive deinstitutionalization of the two-party system. The two traditional parties, *Acción Democrática (AD)* and the *Christian Democratic Party (COPEI)* could no longer provide the basic needs, goods and services the populace required. The conditions for a complete breakdown of the party system were in place. When president Carlos Andres Perez attempted to reverse the pattern of

economic performance by implementing a package of neoliberal policies, riots followed and the military had to be sent into the streets.

On the night of 3 February 1992, insurrectional members of the military, led by the leaders of the Movimiento Bolivariano Revolucionario 200 (MBR-200), decided to take actions into their own hands and depose the regime. The military uprising failed to take control of the state. It succeeded, however, in launching the political career of one of the leaders of the coup.

Lieutenant Colonel Hugo Chávez first captured national attention on 4 February 1992 as the leader of the military columns that attacked Caracas. Although the coup had failed, Chávez became an instant celebrity with the masses when he defiantly told a live national television audience:

Comrades! Sadly...for now ...the objectives that we were pursuing were not achieved here in the capital. It means that, we here in Caracas, did not achieve control....Listen to my words; listen to the Comandante (LTC) Chávez that sends you this message, the objectives planned nationally will not be possible—*for the moment.*<sup>1</sup>

The image of Lieutenant Colonel Chávez looking defiantly and straight into the camera made him an instant celebrity amongst the poor masses who, although they failed to join the insurrection, now revered him for standing up to the corrupt regime. Chávez was court-martialed and sent to prison, but after only two years he and his fellow coup-plotters were pardoned, and granted all their civic rights back.

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<sup>1</sup> Words expressed by LTC Hugo Chávez Frias on a national televised address following his surrender after the failed coup, Caracas, Venezuela in Zago, Angela, "La Rebelión de los Angeles," Caracas, Fuentes Editores, 1992

While in prison Chávez recalled in writings and letters that the turning point for his motivation to lead the failed coup was the so-called “Caracazo” in 1989. Protests against the Perez government’s neoliberal economic policies, were met with repression in which many people died. Chávez recalls “people went into the streets and this so-called democratic government answered with guns and rifles... we had two alternatives as soldiers: continue massacring our people on the order of the tyrant dressed as a democrat, or aim the rifles against him.”<sup>2</sup>

When Hugo Chávez was pardoned he went on a national and international crusade, traveling abroad to Argentina and Cuba. He continued his political activism with the Movimiento Bolivariano Revolucionario 200 (MBR-200), promoting absenteeism in the gubernatorial elections of 1995. His political speeches were infused with fiery rhetoric against representative democracy and in particular against the two-party system (AD-COPEI) in Venezuela.

In December of 1998, running on a populist platform to end corruption and to rid Venezuela of 40 years of “partyarchy”<sup>3</sup>, Hugo Chávez Frias was elected President of Venezuela. Finally, he had achieved through the ballot box what he couldn’t achieve militarily six years before when he led a bloody coup attempt.

Since taking office in February of 1999, president Chávez has steadily been conducting a massive “democratic experiment” designed to overcome the “partyarchy” and corruption of the past. President Chávez has often described Venezuela’s political

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2 Ibid

3 Jennifer L. McCoy, “Chávez and the End of ‘Partyarchy’ in Venezuela”, *Journal of Democracy*, December 1999

project as one of “direct protagonist and participative democracy.”<sup>4</sup> Central to that thesis was the role of the National Assembly, which rewrote the Constitution. In the “Bolivarean” Constitution, even though many articles are perceived to give much greater power to the Executive, there are also articles in which the citizens participate via referenda, initiatives, town hall meetings and recalls. He also has concentrated power by appointing members of his party and the military to positions and institutions, which all report to the executive. Chávez’s grip on power, his charisma and his attraction to the poor are deeply rooted in his “Bolivarian Messianism”. This doctrine is a blend of romantic idealism, militarism, patriotism and socialism. Many fear that he is moving swiftly towards one- man rule.

The Venezuelan case is representative of a broader pattern emerging in Latin America. Democratically elected leaders are increasingly relying on seemingly non-democratic means to change political institutions weakened by inefficiency and corruption. The democratic façade is maintained by calling referenda and periodic elections, in which the government faces little or no challenge from a non-existent or weak opposition. By maintaining this democratic façade, they avoid criticism or sanctions from the international community, mainly the U.S., without whose investments and aid they could not survive. Some policy makers are calling these regimes “rogue democracies.”<sup>5</sup> In such democracies, elections are held periodically, but there is a lack of horizontal accountability, universal respect for civil liberties and sound civil-military

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4 Norberto Ceresole, “Caudillo, ejercito, pueblo. El Modelo Venezolano o la postdemocracia”, Caracas, Venezuela, February 1999

5 Barbara Crossette, “When Democracy Runs off the Rails” New York Times, June 4, 2000 accessed online at: <http://www.nytimes.com/library/review/060400rogue-democracy-review.html>

relations. As will be shown, President Chávez's vision of participative democracy (and his practice of it) violates some of the basic principles of liberal democracy. In addition, it will be shown that, in practice, Chávez also violates his own vision of democracy.

### **C. METHODOLOGY**

As a single case study, this thesis will focus on the Venezuelan regime to generate hypotheses about the nature of emerging threats to democracy and how they might be addressed. This thesis draws on the relevant literature to develop a framework for categorizing democracies and then uses this framework to assess the state of democracy in Venezuela. It will conclude by offering some policy recommendations on how to deal with these regimes.

### **D. IMPORTANCE**

In Latin America today democracy faces new challenges and threats. Democracy is no longer threatened by military-led coups or "self-coups". In those cases, obvious attacks on democracy occurred as democratically elected executives were deposed or legislatures shut down. The reaction and response, not only by the international community but also by civil society in the countries where it happened, was swift.

Today, however, the biggest challenges and threat come in the form of a more subtle erosion and deterioration of democratic norms. U.S. policy makers find itself in the difficult position of knowing how to deal with this newer kind of threat and the leaders behind it. In many of the cases this deterioration comes from democratically elected popular leaders-- leaders who possess enormous charisma and utilize their popularly given mandate to concentrate power in the executive branch of government.

There are many examples of this new kind of threat. Carlos Menem in Argentina, Fernando Collor de Mello in Brazil, Alberto Fujimori in Peru and now Hugo Chávez Frias in Venezuela, have all attempted to rule using presidential decrees and bypassing all other democratic institutions. The Venezuelan case is particularly important to study because Chávez, more than any of the others, has developed an extensive alternative vision of democracy to justify his actions.

The thesis is important because the promotion of democracy is vital to our national interests, and is a key part of the United States national security strategy. Also the case of Venezuela is particularly significant because it is a large oil producer and supplier and one of our most important trading partners in the region. Hugo Chávez Frias's ideas about democracy, and his resultant actions, are not only a threat to democracy in Venezuela but also other democratic regimes in Latin America, like Ecuador, Bolivia, and even Colombia. Hugo Chávez has been very supportive of coup movements in Ecuador, indigenous movements in Bolivia, and has asserted an affinity for leftist guerrillas in Colombia.

#### **E. ORGANIZATION OF THE STUDY**

Chapter II advances four different perspectives on democracy, ranging from two minimalist definitions (electoral and delegative democracy) to two more expansive visions of democracy (liberal and substantive). The position of the United States foreign policy apparatus on democracy and Chávez's vision are situated relative to these four perspectives.

The next three chapters then evaluate the situation in Venezuela according to these definitions of democracy. Chapter III reviews the extent to which president Chávez

has respected civil liberties and other conditions necessary for free and fair elections. Chapter IV covers the new Bolivarian constitution and its impact on the relationship between the branches, the executive, the National Assembly (AN), the Supreme Justice tribunal (TSJ) and two new “People’s power” branches, paying particular attention to the issues of checks and balances. Chapter V evaluates the extent to which the military plays the kind of expansive and autonomous role that is generally considered inconsistent with democracy.

Finally, Chapter VI will offer conclusions on how some of the actions taken by Hugo Chávez Frias violate the U.S. definitions and his own definitions of democracy. Based on the preceding analysis, it will make some recommendations to U.S. policy makers on confronting the challenges of promoting democracy under these circumstances.

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## II. DEFINING DEMOCRACY

This chapter will examine four definitions and perspectives on democracy. It begins with the most minimal notions of electoral democracy, and discusses a particular version of this, delegative democracy. Third, it highlights the more extensive procedures of liberal democracy. The fourth view, focuses on popular participation and social and economic outcomes. In addition, this chapter situates President Chávez's vision of democracy within these four definitions and shows how it differs from the view of United States policy makers.

### A. ELECTORAL DEMOCRACY

The focus of this definition centers on the notion of free and fair elections held periodically. Political offices are thus filled through multiparty elections. Additionally, procedural democracy calls for peaceful and uncontested transfer of power after the election results are accepted.

Larry Diamond defines a minimalist electoral democracy as "one that usually acknowledges the need for minimum levels of freedom (of speech, press, organization and assembly) in order for competition and participation to be meaningful."<sup>6</sup> In sum, an electoral definition of democracy focuses exclusively on periodic free and fair elections with minimum levels of respect to civil liberties.

### B. DELEGATIVE DEMOCRACY

Delegative democracy represents a version of electoral democracy that has become widespread in Latin America, particular in moments of economic crisis. In

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<sup>6</sup> Larry Diamond, *Developing Democracy Towards Consolidation*, The John Hopkins University

“delegative democracy”<sup>7</sup> presidents believe that because they are voted into office with a large mandate, they can make decisions without listening to the other branches of power. As opposed to producing a pluralistic institutional representation, elections delegate tremendous authority to whomever is elected. Because of personal charisma and popular backing, elected officials may even rule by decree, in order to swiftly implement changes to produce the results the people want.<sup>8</sup>

Delegative democracy entails the “strengthening of the executive institutions above all others and upholds the president as the sole embodiment of the interests of the nation.”<sup>9</sup> In delegative democracies “voters are mobilized by clientelistic ties and populist, personalistic appeals, parties and independent interest groups are weak and fragmented.”<sup>10</sup> The people give the ruler a clear mandate to govern for them and to “fix” the democratic institutions, which are corrupt, unnecessary or inefficient. In this type of polyarchy, the executive places a great deal of stress on vertical accountability (e.g., the link between the president and the people), but horizontal accountability is extremely weak or absent. In contrast, in a representative democracy both vertical and horizontal accountability (checks and balances) are present.<sup>11</sup>

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press, Baltimore and London, 1999

7 O'Donnell, Guillermo. "Delegative Democracy." *Journal of Democracy*. Vol. 5, No. 1 (January 1994)

8 Larry Diamond, *Developing Democracy Towards Consolidation*, The John Hopkins University press, Baltimore and London, 1999

9 Ibid

10 Ibid

11 Charles D. Kenney, “Reflections on Horizontal Accountability: Democratic Legitimacy, Majority Parties and Democratic Stability in Latin America, paper prepared for the conference on Institutions, Accountability, and Democratic Governance in Latin America, Kellogg Institute for International Studies, University of Notre Dame, May 8-9,2000

### C. LIBERAL DEMOCRACY

As more states satisfy “electoral” conceptions of democracy, it is necessary to evaluate the extent to which they meet the other freedoms and requirements that are frequently considered important for democracy. Phillippe Schmitter and Terry Karl, for example, argue that “Popularly elected officials, must be able to exercise their constitutional powers, without being subjected to overriding opposition from unelected officials.”<sup>12</sup> Even if elections are held periodically, there must also be autonomy and accountability by those elected. If these conditions do not exist then, the real competition and participation will not satisfy and present other alternative and options to the electorate. Moreover, Karl often mentions the “fallacy of electoralism” or “the faith that merely holding elections will channel political action into peaceful contest among elites and accord public legitimacy to the winners.”<sup>13</sup> Multiparty elections, which exclude significant portions of the electorate, thus leaving important segments from participating and having their interests represented, are considered less than democratic according to this view.

These additional elements, as discussed by Larry Diamond, include the absence of domains of power for the military or other actors which are not accountable to the electorate, the existence of checks and balances between branches of government (what has been called “horizontal accountability”), and respect of the rule of law, in which laws

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12 Phillippe C. Schmitter and Terry Lynn Karl, “What Democracy Is... and Is Not,” *Journal of Democracy*, February 1991, Vol. 2, No. 3

13 Ibid

are applied fairly to all<sup>14</sup>. These conditions are at the heart of the definition of “liberal democracy.”

#### **D. SUBSTANTIVE DEMOCRACY**

Substantive democracy stresses the right of the people to participate in social and economic rights, like free education and health care. The incorporation of social and economic dimensions to democracy was a popular approach with scholars in the 1960s and 1970s with the triumph of Fidel Castro in Cuba and the ascension of the left in many Latin American countries.<sup>15</sup> In a substantive democracy, vertical accountability of leaders to “the people” through policies designed to correct social inequalities is stressed over the horizontal accountability of liberal representative democracy. The stress on popular participation in substantive democracy also has a procedural dimension, with the people frequently being organized in a centralized party or in state-sponsored popular organizations.

After 40 years of Castro’s regime and continent-wide experiences with authoritarian rule taught leftists the importance of political rights in a “bourgeois democracy”, scholars and leftist practitioners today tend to stress procedural notions of democracy. However, discussions of substantive democracy are likely to gain ground in the future, at least among the people, as social and economic inequalities exacerbated by neoliberal economic models persist. Even many scholars who embrace liberal notions of democracy argue that a certain level of social economic equality is necessary for the effective exercise of political rights. Kenneth Roberts argues that “social and economic

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14 Ibid

15 Larry Diamond, *Developing Democracy Towards Consolidation*, The John Hopkins University

inequalities can easily be translated into concentrations of power in the political sphere that skew the articulation of popular interests and block the exercise of popular sovereignty. Social and economic equality is not a substantive outcome that is external to the functioning of democratic procedures but a prerequisite for equal access and unbiased democratic contestation and thus a vital indicator of procedural fairness.”<sup>16</sup>

#### **E. VIEWS OF THE U.S. AND PRESIDENT CHÁVEZ ON DEMOCRACY**

For the most part U. S. policy makers, when dealing with other Latin American nations in areas of democracy, have often operated under an electoral notion of democracy and what has been called the “fallacy of electoralism”, that is equating elections with democracy. During the height of the cold war and the expansion of democracy during “The Third Wave of Democratization”, policy makers were more often concerned with at least fulfilling the electoral requirements of democracy, than in promoting the other more complex issues of democratic practices. Essentially, as long as countries were conducting periodic, “free and fair” elections, U.S. policy makers more often than not turned their heads the other way when it came time to evaluate democracies in other democratic arenas such as respect for civil liberties and human rights.

Along with regional stability and economic prosperity, promotion of democracy is one of the major elements in the U.S. National Security Strategy. Policy makers believe that democratic nations bring economic prosperity and stability to a region; however, experience shows that these positive benefits stem from liberal democracies and not

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press, Baltimore and London, 1999

16 Kenneth M. Roberts, *Deepening Democracy? The Modern Left and Social Movements in Chile and Peru*,

electoral democracies. For this reason, as well as the collapse of the Soviet and Eastern European communism and a sharp increase in the diffusion of democratization, the U.S. is much more concerned today with promoting aspects of democracy other than just elections<sup>17</sup>. Some of these, which are much harder to promote, are respect for civil liberties and human rights, political pluralism and inclusion, sound judiciary reforms, military subordination to civilian rule, and a participative civil society. U.S. policy makers no longer see these aspects as secondary to the electoralist notion.

In contrast to this vision of liberal democracy, President Chávez promotes a project of “direct protagonist and participative democracy” in Venezuela.<sup>18</sup> Chávez loathes representative democracy. At every opportunity he gets he states that representative democracy along with “savage neo-liberalist economic models” are the causes of most problems in the world and, in particular, in Venezuela. At the last Ibero-American Summit in Panama in November 2000, he stated that “the only thing representative democracy did was for a bastard elite class to have possession of power and surrender people into poverty,...”<sup>19</sup> Also in an interview with the Washington Post in late November Chávez stated that “Representative democracy had failed Venezuelans because those who had been elected to govern for the people had betrayed them and

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Stanford University press, Stanford, California, 1998

17 Ibid

18 Norberto Ceresole, “Caudillo, ejercito, pueblo. El Modelo Venezolano o la postdemocracia”, Caracas, Venezuela, February 1999

19 “Chavez: End ‘Tyranny of the Small Elite’”, Washington Post, Sunday October 15, 2000, accessed online at <http://www.washingtonpost.com/wp-dyn/articles/A7305-2000Oct14.html> [20 Oct 2000]

governed for small elites ... so therefore I am was creating a new model of political participation..."<sup>20</sup>

Chavez's model relies on direct mechanisms of participation rather than the indirect mechanisms of representative democracy. These direct mechanisms include initiatives, which allow citizens to be involved directly in lawmaking, bypassing the legislature; referenda which allow citizens to veto laws or answer critical questions needed for new laws to be passed; and recalls which allow citizens to remove an elected official from office prior to his term ending.

President Chavez's vision combines different elements of the four definitions of democracy discussed above. His vision meets the minimum definition of an electoral democracy, by calling for periodic elections and the observation of a minimum level of respect to civil liberties. It contains most elements of a delegative democracy, by stressing vertical accountability directly to the people. And arguing that a mandate to govern, gives him the right to ignore, checks and balances from the "corrupt" institutions left over from representative democracy. Chavez's vision clearly contradicts the more expansive definitions of liberal democracy, by rejecting its horizontal checks and balances and arguing that its social and economic results exclude the people. Finally, his vision is similar to definitions of substantive democracy in stressing the centrality to democracy of social and economic policies that serve the people. Like substantive democracy he stresses mechanisms for "direct" popular participation in politics. The major difference is that president Chavez does not limit this to state sponsored

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<sup>20</sup> Ibid

associations; but also emphasizes the role of electoral mechanisms (e.g. referenda, initiatives, recalls) for providing not only a means of popular participation in government but also a popular check on the government, including the executive.

President Chávez truly believes that the problems Venezuela faces today are products of the 40 years of corrupt “partyarchy”. Both parties, AD and COPEI lost the support of an overwhelming majority of the people. The increased perception of corruption amongst the leaders and government officials, the decline in quality of life, the government’s inability to provide basic goods to people and the economic and social performance of the “Punto Fijo” governments, disenchanted the majority of the Venezuelans and led them and Hugo Chávez to reject the major elements of representative democracy models.

Elements of Democracy	Electoral	Delegative	Liberal	Substantive	Chávez's participative democracy
Elections	+	+	+	~	+
Civil Liberties	~	~	+	~	~
Accountability - Checks and Balances - Citizen Participation	~ ~	- -	+	- +	- +
Civilian Control of the Military and military roles limited to defense	~	~	+	~	+/- *
Stress on Outcomes (Ends justifies means)	~	+	-	+	+

Table 1. Comparative Table of Democratic Models

Note: + yes, - no, ~ maybe

\* Civilian control is advocated but with expansive roles for the military.

The following chapters will evaluate the extent to which President Chávez's practices of democracy matches these different definitions. It will show that although Venezuela is an electoral democracy meeting some of the minimalist requirements, it cannot be labeled a liberal democracy. In addition, the evidence shows that President Chavez' behavior fails to live up his own model of participative democracy.

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### **III. ELECTIONS AND CIVIL LIBERTIES**

An important element of any definition of democracy is that free and fair elections are conducted in periodic intervals. In addition, the respect for civil liberties enables participation and contestation in the elections. For over 40 years Venezuela was considered a sound democracy. It had a strong two- party political system; periodic elections and the transfer of power from one party to the other were accomplished orderly and peacefully. This chapter will examine the extent to which the Chávez government has adhered to democratic norms in the areas of elections, human rights and civil liberties. It will argue that government actions in these areas violate the norms of liberal democracy and fall short of President Chávez's vision of a participative model of democracy.

#### **A. ELECTIONS**

For 40 years in the period also known as “the Pact of Punto Fijo”, elections in Venezuela were held periodically with both parties alternating power. This system endured for a long time, because of the foundational pact by both of the traditional parties. The Pact of Punto Fijo gave the two main parties a monopoly on political representation and they colluded to prevent third parties or independent representatives from gaining office. Michael Coppedge in his book, *Strong Parties and Lame Ducks, Presidential Partyarchy and Factionalism in Venezuela*, argues that, “ this interpretation is in line with the so-called ‘elite theory of democracy’ in which democracy requires only

a periodic competition among parties or candidates for the right to rule.”<sup>21</sup> At election time Venezuelans used to say, “acta mata voto” meaning once the electoral act was signed no more votes were accepted. All this irregularities gave way to a deep electoral reform. Electoral reforms were needed to change many perceived allegations of fraud and irregularities. In short, during Punto Fijo period the people did not participate (the parties controlled everything) and the end result was corruption, social inequality, and bad government. Chavez believes that popular participation will lead to a good government on behalf of the poor.

President Chávez in his governmental agenda calls for a complete revamping of all the “corrupt and rotten” political institutions that blocked progress and the creation of a socially just society.<sup>22</sup> Isaias Rodriguez, the former Vice-president, stated that “what has to be done is not fix the old social order, but to re-do it, re-build it, re-found it, and define it in light of the new institutions of power...”<sup>23</sup> Part of this plan to re-found institutions was the holding of elections for a unicameral National Constituent Assembly (ANC), which eliminated the bicameral Congress, and was given a six-month mandate to rewrite the Constitution. The Constituent Assembly was the primary mechanism to “jumpstart” the other institutions that had been inefficient, corrupt, and made “rotten” by 40 years of Partyarchy in Venezuela. This led to several elections and referenda.

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21 Coppedge, Michael, *Strong Parties and Lame Ducks, Presidential Partyarchy and Factionalism in Venezuela*, Stanford University Press, Stanford, California, 1994

22 “La Propuesta de Hugo Chávez, para transformar a Venezuela una Revolución Pacífica, Caracas, Venezuela, September 1998, accessed online at <http://www.cordiplan.gov.ve/prog-gob.htm> [6 Jan 2000]

23 Isaias Rodriguez in Ismael Perez Vigil, “Liderazgo, Sociedad Civil y Participación Política”, *Venezuela Analítica*, June 14, 2000 accessed online at: <http://www.analitica.com/va/politica/opinion> [22 Jun 2000]

In addition to the referendum to convoke the National Constituent Assembly (ANC) and elections to select its members, Venezuelans have been called to the polls four additional times by the Chávez's government in the past two years. Two of these occasions were elections: the so-called "megaelections" in which all positions, from the president down to secretaries of parochial boards, were contested and elections for mayors. Two were referenda: to approve the new Constitution to "democratize" labor unions.

International observers have judged all elections to be conducted in a free, fair and transparent manner since November 1998. In every case President Chávez's coalition, Polo Patriotico (PP) resulted as the clear winner. In this elections the PP obtained over 90% of the seats (e.g., they took 119 ANC seats of 125). The presence of international observation has given legitimacy not only to the electoral process, but also to the overall results. Even with the presence of these observers, the electoral processes have not been problem free. There have been technical problems with databases and software; in some cases the parties, the media and analysts have called the fairness and transparency of certain races into question. In particular, some alleged fraud violations and irregularities at the voting places. Still pending from the "Megaelections" are several contested races, in which the losing candidates have protested the results.

Before the postponement of the mega-elections in May 2000, the National Electoral Council (CNE) that had been appointed by the National Assembly to conduct these elections was under extreme fire and criticism by opposition parties and civil society. The National Assembly was dominated by members of Chávez's party, the Movimiento Quinta Republica (MVR) and had named only party sympathizers to an

electoral council, which was traditionally composed of representatives from all parties. Once in power, the CNE dismissed key personnel that had any experience or knowledge in electoral processes, to name their own personnel to key posts within the CNE. Those actions were seen by the opposition as a clear intent to commit fraud by not allowing representatives from their parties to oversee the actions within the CNE.

In the end, what resulted in the cancellation of the megaelections was the complete mishandling of the preparations for the elections. Under the best of circumstances, the megaelections posed a complex, technical challenge. The new Constitution called for a re-legitimization of *all* powers in these elections; this meant that over 30,000 candidates were competing for over 6,000 offices). The partisan decision by the CNE to dismiss experienced personnel and replace them with party loyalists greatly increased the challenge. The CNE failed to meet this challenge, committing a myriad of technical mistakes (e.g., not updating databases, uploading without enough time to publish proper electoral lists and conduct “dry-runs”). Former President Carter, the head of an international observer delegation, stated “this was the most complex process he had ever observed...he concluded that the best decision was to postpone the election, to avoid a more serious and violent situation from happening.”<sup>24</sup>

As a result of this fiasco, the CNE resigned under extreme pressure from civil society. A new five-member Council was again appointed, although this time, civil society, in particular the two organizations that pressured for the postponement of the elections had some influence over the names chosen. The CNE was able to conduct the

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24 Alicia LaRotta Moran, “Lo mas complejo que hemos visto”, El Universal, Caracas, Venezuela, 24 may 2000 accessed online at: <http://www.eud.com> [29 May 2000]

July version of the megaelections successfully, but many civil society organizations continued to distrust the CNE because of its past incompetence and because they judged civil society participation the appointment process to be inadequate.

In all other elections or referenda conducted, there have been questions raised regarding the fairness, transparency and legality of the process. In the case of the postponed May 2000 megaelections, the date initially chosen violated the constitution by not allowing a six-month period between the approval of it and the elections. The opposition claimed the date favored the President, by not allowing them sufficient time to organize, obtain enough signatures to register their candidates, and to campaign. In every referendum the legality of the question being asked has been called into question. Many say that the president is using this referendum mechanism to pass controversial issues to fulfill his political revolution. The TSJ has ruled favorably on the constitutionality of all referenda thus far.

Additionally, President Chávez violated many electoral laws by using state resources, like his official plane and his weekly radio program, for campaign purposes. Many times, the CNE advised him that he was violating laws, but he said that as president he was conducting government business. Only one time was he told not to conduct his weekly radio program. In response, President Chávez instead delivered a national broadcast television address, and promised to keep delivering TV addresses until the elections were over.<sup>25</sup> The CNE issued a fine. Chávez's supporters rapidly demonstrated against this and collected the money to pay the fine. Despite the failure of

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<sup>25</sup>Country Reports- Press Freedom Survey 200- Venezuela from the Freedom House Organization accessed online at: <http://www.freedomhouse.org/pfs2000/reports.html> [3 Mar 2001]

the CNE to stop Chávez, their actions were enough to draw international attention to the situation. After remarks from international observers Chávez “voluntarily” stopped using state resources.

## **B. HUMAN RIGHTS**

Human rights violations in Venezuela are not the product of a systematic government policy, but there are areas of concern. Since the early 1990s, Venezuela has continually been placed on the State Department’s annual human rights report as one of the countries with a high number of violations. The 1999 State Department report concluded “the Government’s human rights record continued to be poor in some areas; although there were improvements in some others, serious problems remain.”<sup>26</sup>

The areas of major concern were extra-judicial killings committed by members of the security apparatus, an increase in torture and abuse of detainees, the failure to punish police and security forces guilty of these abuses, long delays in trials, and corruption and severe inefficiency in the judicial and law enforcement.<sup>27</sup> Military courts most often are seen as biased in favor of members of the military forces convicted of any violations or even human rights abuses. This will be addressed in more detail in chapter five.

A new Organic Criminal Procedures Code (COPP) went into effect on July 1999, but authorities are still struggling to implement it. Although President Chávez’s government fired a high number of judges whom it considered corrupt and incompetent, the judicial system remains highly inefficient. Most of the crimes cited in the reports are

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<sup>26</sup> Department of State 1999 Report of Human Rights Practices, released by the Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, February 25, 2000. Accessed online at: <http://www.state.gov/g/drl/rls/1999/wha/index.cfm?docd+835> [1 Mar 2000]

<sup>27</sup> Ibid

not the result of indiscriminate acts by the police; two factors have increased this numbers. First, unemployment has aggravated crime to very high levels. Second, the implementation of the COPP ties the police's hands, because a criminal cannot be brought before a judge until a hearing is scheduled. Since the judiciary is in such disarray, the police just have to cite the criminal and let him free.<sup>28</sup>

Many consider the prison system in Venezuela the worst in all of Latin America.<sup>29</sup> Conditions are brutal, and many of the killings that take place within the prison cells are never investigated, and in most cases not even known. The Venezuelan Program of Action and Education in Human Rights (PROVEA), a non-governmental human rights organization has documented many of these killings. The President declared the prisons to be in a state of emergency, but nothing has been done to solve this situation.

Some accusations of human rights abuses stem from the disaster that occurred in Venezuela, coincidentally on the day of the referendum to approve the Constitution, in December 1999. The country suffered its worst natural disaster, when heavy rains triggered floods and landslides, killing an estimated 10,000 to 20,000 people and causing extensive structural damage to coastal towns. The ANC declared a national state of emergency and granted the President broad powers to respond to any situation. The President ordered members of the Venezuelan Armed Forces (National Guard and "Cazador"-Ranger type Battalions) as well as members of the State Security Police

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<sup>28</sup> U.S. Department of State, Human Rights Practices report -2000, country report, February 2001, accessed online at: <http://www.state.gov/g/drl/rls/hrrpt/2000/wha/index.cfm?docid=835> [3 Mar 2001]

<sup>29</sup> Amnesty International, Report of human Rights Violations, 2000, June 15, 2000. Accessed online at

(DISIP) into the devastated area to prevent looting. Witnesses claim that these security forces detained and brutally killed alleged looters in Vargas State; the area hit the hardest by the mudslides. The OAS human rights commission and other international human rights NGOs continue to investigate these alleged human rights abuses by members of the state's security apparatus.

### **C. FREEDOM OF SPEECH AND OF THE PRESS**

In Venezuela there are constitutional provisions safeguarding freedom of speech and press, and generally the government respects these provisions. However again in this area, there have been some constitutional changes and actions by the Chávez government, which raise concerns about possible uses of the state apparatus to discourage freedom of the press. This section argues that the pressure on the media and on civil society not only violates the constitution, but also increases the threats to democracy itself.

In the new Constitution there is a provision which includes a "truthful information clause" that is perceived as a tool that can be used by the government to intimidate the press. The Inter-American Press Society (SIP) has said that: "The Constitution of the Bolivarian Republic of Venezuela in its article No. 58 places at risk the rights for freedom of speech and expression..."<sup>30</sup> The enabling legislation putting this clause into effect is contained in Articles 208 and 209 of the new telecommunications law regulating the media, which was passed in July 2000. The articles state, "The government has the right to restrict any information or cancel programs, which it believes to be not timely,

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<http://www.amnestyinternational.org> [1 Jul 2000]

<sup>30</sup> Irma Alvarez, "Constitución implica riesgos para la libertad de expresión", El Universal, Caracas, Venezuela, 28 February 2001, accessed online at: <http://www.eud.com/2001/02/28/28104AA.shtml> [28 Feb 2000]

truthful, impartial, and uncensored.”<sup>31</sup> This law can be used to limit the press to reporting what the government wants them to report. The press and constitutional lawyers claim it violates the provisions of the new Constitution. Freedom House expressed concern “that the qualifying terms describing information to which the public has a right could allow for control based on subjective criteria.”<sup>32</sup>

In addition to this new law, there have been other actions by the government that have been perceived as intimidation to the press. Two newspapers have closed claiming government pressure on their editors. In another case the editor of “El Mundo”, Teodoro Petkoff, resigned because of what he described as “tremendous and belligerent government pressure” on the owners of the newspaper. Before the postponed mega elections of May 2000, a TV program, “24 Hours”, hosted by Mr. Napoleon Bravo, went off the air after steady pressure from the government.<sup>33</sup> At the time, Bravo’s wife—former ANC member Angela Zago—was the spokesperson for the presidential campaign of LTC (ret) Francisco Arias Cardenas, Chávez’s main rival in the megaelections. During the news conference in which Bravo was denouncing government intimidation, members of the State Police (DISIP) were seen inside the hotel where the conference was taking place.

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31 Ley de telecomunicaciones de la Republica Bolivareana de Venezuela, Caracas, Venezuela, Junio 1, 2000, accessed online at: <http://www.analitica.com/bitbiblioteca> [10 Jun 2000]

32 Country Reports- Press Freedom Survey 200- Venezuela from the Freedom House Organization accessed online at: <http://www.freedomhouse.org/pfs2000/reports.html> [3 Mar 2001]

33 “Soy el primer perseguido politico de el Gobierno de Chávez” Caracas, Venezuela, April 28, 2000 accessed online at: <http://analitica.com.ve> [1 May 2000]. Napoleon Bravo host of a news program, held a news conference to denounce that his program 24 hours was shut down allegedly from pressure from the government. At the time the conference was being held, DISIP agents were seen taping and filming the news conference.

While campaigning for a “yes” vote for the approval of the constitution in November 1999, President Chávez stepped up his campaign against the media. On November 28 during the transmission of his radio program “Hello President”, he accused Andrés Mata, publisher of Venezuela’s leading newspaper, *El Universal*, of “orchestrating an international campaign against the approval of the constitution, against the Bolivarian revolution, against the majority of Venezuelans, and against social justice and progress...”<sup>34</sup> Other newspapers have also felt the pressure from the state intelligence apparatus. The weekly newspaper, “*La Razón*”, has been under direct observation and pressure from the security police since it wrote about alleged corruption cases within the Chávez government. (Interestingly enough, when Chávez was first released from prison and was interested in writing a weekly column, “*La Razón*” was the only paper, which would take his writings. During the presidential campaign of 1998, “*La Razón*” became the official newspaper of Chávez’s party, the Movimiento V Republica). The Inter-American Human Rights Commission (CIDH), an OAS human rights watchdog,<sup>35</sup> has ruled in favor of “*La Razón*” on several of the accusations introduced by human rights non-governmental organizations that the government violated civil liberties.

Although there is no official censure of any media organizations, the president denounces the press in almost every speech he gives. In his fiery and often intimidating rhetoric he calls them “anti-social” tools of the corrupt and rotten elites that did so much harm to Venezuela prior to his presidency. He accuses them of organizing an

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<sup>34</sup> Country Reports, The Americas: Venezuela, CPJ, February 2000, accessed online at: <http://www.cpj.org/attacks99/americas99/Venezuela.html> [26 Feb 2001]

<sup>35</sup> William E. Izarra, “Qué pasa con ‘*La Razón*’, 23 February 2001, Venezuela Analitica accessed online at <http://www.analitica.com/va/poliitca/opinion/7797443.asp> [23 Feb 2001]

international campaign against him, financed by international groups, and threatens to expose them in the public opinion. In response to their criticisms of the constitution's "truthful information clause", President Chávez has called the members of the SIP "liars, irresponsible, obtuse, superficial and full of complexes..."<sup>36</sup> Even international news organizations have been the target of President Chávez's verbal attacks. For example, in August he accused *The New York Times* of "publishing gigantic lies in an August 21 editorial that called him a 'potentate' who sought to concentrate power in the presidency."<sup>37</sup>

The use of the state security and intelligence apparatus to intimidate those who might criticize the government extends to the Catholic Church as well. Initially, while the ANC was debating controversial articles prior to the approval of the new constitution, President Chávez and members of his cabinet, specifically those of State, Interior and Defense, responded to the Catholic Church's comments on the controversial articles with a fiery verbal "barrage". In addition, members of the state intelligence police (DISIP) "visited" the diocese's radio station. Right before the postponed elections, Monsignor Baltazar Porras, the President of the Episcopal Conference of Venezuela, spoke out about how the Church did not think the election process was being conducted in a "free, free and transparent" manner. As a result of the Monsignor's comments, the President and government officials launched a vicious verbal attack. The president called the

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<sup>36</sup> "Presidente tildó a la SIP de 'mentirosa y obtusa'" El Universal, Caracas 16 June 2000 accessed online at: <http://universal.eud.com/2000/06/16/16111DD.shtml> [16 Jun 2000]

<sup>37</sup> Country Reports, The Americas: Venezuela, CPJ, February 2000, accessed online at: <http://www.cpj.org/attacks99/americas99/Venezuela.html> [26 Feb 2000]

Monsignor an “Adeco with a cassock”<sup>38</sup> and accused him “of teaming up with the devil.”<sup>39</sup> Once again, agents from the DISIP visited, photographing and videotaping the Monsignor’s Sunday mass. These actions and intimidating verbal attacks against members of the Catholic Church have preoccupied many.

The latest incident that has caused furor amongst human rights advocates is the detention and imprisonment of a law professor who wrote an article in the local newspaper insulting the armed forces. He was arrested by armed police and was charged under military law with insulting the Armed Forces, a charge that under the Military Justice Code carries a jail sentence of three to eight years. Human rights organizations say this arrest violates not only the writer’s human rights but also the articles in the new constitution as well as international press agreements Venezuela has signed.<sup>40</sup> This incident of civilians being charged under military law will be addressed in chapter five.

#### **D. FREEDOM OF ASSOCIATION**

Although the Venezuelan constitution safeguards freedom of association, calling it “essential,” the Chávez government has repeatedly violated this basic right. In response to an executive request for a ruling on the meaning of civil society] the Supreme Justice Tribunal issued the following declaration in November 2000:“First, nongovernmental organizations that receive funding from foreign governments or whose leaders are not

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38 Alicia LaRotta Moran “Presidente llamo Monseñor Porras ‘Adeco con sotana’ El Universal, Caracas, Venezuela March 20, 2000 accessed online at <http://universal.www.eud.com> [26 Feb 2000] By calling the Monsignor Adeco, President Chavez meant that the monsignor not only was associated with Acción Democrática, but it implies that he was corrupt and it was meant as the most despicable insult.

39 Ibid

40 Scott Wilson, “As military men get panties in the mail, a law professor lands in jail”, Washington Post foreign Service, January 19, 2001, accessed online at <http://washintongpost.com?wp-dn/world/americas/southamerica/venezuela/A599918-2001Jan> [25 Feb 2001]

Venezuelan are not part of civil society, and therefore may not represent Venezuelan citizens in court or bring their own legal actions. Second, religious organizations are not part of civil society, and are subject to the same restriction as those defined for civil society. And third, the government has an obligation to ensure that NGOs are ‘democratic in nature’, therefore their internal elections (such as board of directors) can be regulated by the. The National Electoral Council (CNE).<sup>41</sup> Larry Diamond in his book, *Developing Democracy Toward Consolidation*, defines Civil Society as “the realm of organized social life that is open, voluntary, self-generating, at least partially self-supporting, autonomous from the state and bound by a legal order or set of shared rules.”<sup>42</sup> Additionally, he notes one key feature for civil society is to “formally governs its own internal affairs. To what extent does it practice democratic principles of constitutionalism, transparency, accountability, participation, deliberation, representation and rotation of leaders.”<sup>43</sup> The ruling by the TSJ clearly violates the autonomy and independence by civil society from the state and depicts state involvement in civil society organizations. In contrast, President Chavez has utilized constitutional rulings, these particular TSJ decree and referenda to limit the right of association and to favor its own government organizations such as the Bolivarian Women Force (FBM), Bolivarian Students Front (FBE), amongst others to rally support to his political project.

One example of the government’s attempt to restrict association is its referendum calling for the “democratization” of labor unions. For many years the organized labor

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41 U.S. Department of State, Human Rights Practices report –2000, country report, February 2001, accessed online at: <http://www.state.gov/g/drl/rls/hrrpt/2000/wha/index.cfm?docd=835>. [3 Mar 2001]

42 Larry Diamond, *Developing Democracy Toward Consolidation*. The Johns Hopkins University Press, Baltimore and London, 1999

unions of Venezuela have operated under an “umbrella” union, the Venezuelan Confederation of Workers (CTV). The CTV played a vital role when democracy triumphed over the dictatorship of General Marcos Perez Jimenez in January 1958. The leadership and core of the CTV is still in its large majority the electoral base of the two traditional parties in Venezuela, Acción Democrática (AD) and COPEI, the Social Christian Democratic Party. President Chávez has often called the CTV “the last bastion of the corrupt elites” that stole from Venezuela and lied to the workers for over 40 years<sup>44</sup>. He threatens the CTV that he will launch a missile against them, and destroy them from their foundations<sup>45</sup>.

In order to organize a labor union loyal to the government, President Chávez formed the Bolivarian Workers Force (FBT) and called for a national referendum to “democratize” labor unions. Against an outcry of protest not only from the existing labor unions but civil society, a referendum was held asking the population: “are you in favor of suspending the leadership of all labor unions for a period of 180 days and for the calling of elections?”<sup>46</sup> The CTV and other organizations protested that this is in violation of constitutional articles of freedom of organization as well as many of the international agreements Venezuela has signed over the years. The International Labor Organization (ILO) agreed with the CTV’s protests and issued a stern declaration against

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43 Ibid

44 Alicia LaRotta Moran “A la CTV se le acabo la Manguanga”, El Universal, Caracas, Venezuela November 27, 2000 accessed online at <http://universal.www.eud.com> [28 Nov 2000]

45Alicia LaRotta Moran “At la CTV le lanzare un misil”, El Universal, Caracas, Venezuela September 3, 2000 accessed online at <http://universal.www.eud.com> [4 Sep 2000]

46 Ernesto Villegas Poljak, “Y ahora... transicion sindical”, El Universal, Caracas, Venezuela, 4 December 2000, accessed online at: <http://archivo.eluniversal.com/2000/12/04104AA.shtml> [26 Feb 2001]

the referendum, threatening a massive boycott of all products coming from or going to Venezuela<sup>47</sup>. Additionally, Bill Jordan, Secretary General of the International Confederation of Free Labor Unions (CIOSL) warned that if Venezuela went ahead with this referendum it could risk losing credits from the World Bank, the International Monetary Fund (IMF) and Inter-American Development Bank (BID), because they all have clauses requiring compliance with ILO agreements.<sup>48</sup> President Chávez accused these international organizations “...of being ridiculous, and being allies with the most powerful and corrupt sectors in the world. I challenge you to boycott Venezuela, if you can...”<sup>49</sup> The Supreme Justice Tribunal (TSJ) ruled the referendum constitutional and gave the green light for it to be held in conjunction with mayoral elections in December 2000.

The constitution does not specify any particular percentage to win approval on referendums. The referendum was approved, with over 69% of the vote, but the high absenteeism (over 79%), gave critics and opposers of Chávez the necessary ammunition to call this “ the first major political and electoral defeat of president Chávez.”<sup>50</sup> Even President Chávez’s political mentor and leader of the MVR, Luis Miquelena, acknowledged that the turnout was not as high as they had hoped, but attributed it to lack

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<sup>47</sup> Alicia LaRotta Moran, “Chávez llamó ridículos a los sindicalistas internacionales”, El Universal, Caracas, Venezuela, 1 December 2000, accessed online at: <http://archivo.eluniversal.com/2000/12/01/01104CC.shtml> [2 Dec 2000]

<sup>47</sup> Ibid

<sup>48</sup> Ibid

<sup>49</sup> Ibid

<sup>50</sup> Clodovaldo Hernandez, “Ganaron el SI y la abstencion”, El Universal, Caracas, Venezuela, 4 December 2000, accessed online at: <http://archivo.eluniversal.com/2000/12/04/04102AA.shtml> [26 Feb 2001]

of interest in the accompanying election of mayors.<sup>51</sup> The president had campaigned hard for the approval of the referendum, but after the results came in, he hardly commented on the results or the high percent of absenteeism. After the referendum the leadership of the CTV resigned, but the worker bases continue to support the organization and have obeyed every call for labor stoppages. The FBT does not have a sufficient organized worker base or a strong enough leadership to defeat the CTV in open worker elections.<sup>52</sup>

This less-than-resounding referendum result and great pressure from the ILO have led to negotiations between the government backed FBT and the CTV to conduct elections in the existing labor unions. However, it is not clear how this negotiations will fare since the FBT is not well organized enough to challenge the CTV in internal elections.<sup>53</sup> The issue was not to hold elections, but to allow the entire electoral population to interfere in the internal matters of the Labor Unions, by answering the referendum question.

## **E. CONCLUSION**

This chapter closely examined some of the areas in which there are concerns for democracy in Venezuela: elections, human rights, freedom of speech, and freedom of organization. It advanced the thesis that the Chávez political revolution is in fact creating certain deterioration to those essential principles of democracy. The rush to hold elections in violation of the constitution, the lack of representativeness of the electoral

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51 Ernesto Villegas Poljak, "Debemos ampliar el sostén social de esta revolución", *El Universal* Caracas, Venezuela, 19 February 2001, accessed online at "<http://www.archivo.eluniversal.com/2001/02/19/18160BB.shtml> [20 Feb 2001]

52 Juan Vicente Vera, "Sindicalismo al garete" *El Nacional*, Caracas, Venezuela, 26 February 2001 accessed online at: <http://www.el-nacional.com/eln26022001/pa7s1.htm> [26 Feb 2001]

53 Taynem Hernandez, "El oficialismo cede al diálogo sindical", *El Universal*, Caracas, Venezuela, 22

commissions and their seemingly partisan behavior, intense pressure on the media, continuous verbal attacks from the president against anyone who dares to criticize him and his efforts to control civil society and centralize participation under a governmental umbrella, all represent challenges to the respect for civil liberties at the heart of a liberal democracy. This evidence puts in question whether President Chavez's government even meets the minimum conditions of an electoral democracy.

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## IV. CHECKS AND BALANCES

As promised in his election campaign in 1998, President Chávez convened a National Constituent Assembly. The Constituent Assembly had a clear mandate from an electoral majority to rewrite the country's constitution. President Chávez challenged them to write it in 90 days and to eradicate the power of the traditional parties, eliminate corruption and attend to the needs of the poor.

This chapter examines the Bolivarian constitution and the extent to which it affects the role-played by the executive, the legislature and the judiciary. It will also examine the two new branches created under the constitution: the "moral" branch and the "electoral" branch of government. It will assess to what extent these four branches function independently to provide the checks and balances to constrain the executive and the autonomous power of the other branches. This notion of horizontal accountability through checks and balances is absent from electoral definitions of democracy but it is a key component of liberal democracy. Chavez's participative vision of democracy, like delegative democracy, tends to reject legislative and judicial checks to the extent they prevent the executive from fulfilling his mandate to the people. However, Chavez's vision, unlike delegative democracy, creates new branches of government representing the people and increasing, in theory, their ability to provide checks on the president.

### A. THE BOLIVARIAN CONSTITUTION OF 1999

Throughout his electoral campaign Hugo Chávez Frias insisted that the main instrument to root out the endemic corruption caused by the two-party system was a National Constituent Assembly (ANC) with a clear mandate to write a new constitution.

On inauguration day, he declined to swear faith and allegiance to the existing constitution; instead, he vowed to replace "... this dying constitution..."<sup>54</sup>. During the opening moments of his inaugural speech he stated "The constitution and with it the ill-fated political system to which it gave birth 40 years ago has to die: it is going to die, sirs, accept it...There will be no backtracking in the political revolution upon which we are embarking..."<sup>55</sup>. Additionally, during the speech he convoked the referendum for the formation of the National Constituent Assembly in direct violation of the 1961 constitution. Later, Chávez's Polo Patriótico (PP) obtained an overwhelming majority in the elections for the Assembly. This majority included long-time loyal followers, including his wife, Marisabel, his brother, Adan, 20 retired Army officers (all of whom participated with president Chávez in the 1992 coups), and a variety of lawyers, journalists and aged leftist guerillas.<sup>56</sup>

President Chávez then introduced a draft Constitutional project that was to be used as a base for deliberation by the members of the Constituent Assembly. Despite his long trips abroad, President Chávez was involved, mostly behind closed doors, in the drafting of the new constitution. Some of the most controversial articles, which the Assembly had initially rejected, were put back in at the insistence of the president during the final deliberating process. (Additional changes were also surreptitiously introduced during an editing process meant to correct syntax errors, after the referendum on the

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<sup>54</sup> Inaugural swearing statement, Hugo Chávez Fries, 2 February 1999

<sup>55</sup> World: "Americas Venezuela is promised 'political revolution' BBC news, February 2, 1999, accessed online at [http://news.bbc.co.uk/hi/english/world/americas/newsid\\_270000/2700790.stm](http://news.bbc.co.uk/hi/english/world/americas/newsid_270000/2700790.stm) [3 Mar 2000]

<sup>56</sup> "The Chávez Revolution" Time magazine August 9 1999, TIME.com accessed online at:

constitution, thus altering the substance of the text approved by the people.) In many ways the new Constitution resembles the “old” one, with the exception of some controversial articles, which increase state intervention in the economy, reduce civilian control of the military, and centralize power in the person of the President.

This constitution was approved by referendum on 15 December 1999 amidst the worst natural disaster that has ever hit the country and became the 26<sup>th</sup> constitution since Venezuela’s independence. Although absenteeism was high at 54%, 70% voted for approval of the document and 29% rejected it. As has been the case in other elections, opposition to the constitution mostly came from those who had voted against Chávez in the presidential elections, supporters of the two traditional parties, AD and COPEI. But there was also opposition from other sectors of society. There was some vocal opposition from the Roman Catholic Church, which immediately became the target of the president’s fiery speeches. Also, economic groups including the influential Venezuelan-American Chamber of Commerce (VENAMCHAM) expressed skepticism about the implementation of the economic reforms contained in the constitution.<sup>57</sup>

Many argue that the new constitution centralizes power in the hands of the president. The constitution, said Chávez, is the “blueprint for the foundation of the fifth republic,”<sup>58</sup> but many dispute this fact and argue that it provides the basis for a

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<http://www.time.com/time/magazine/article/0.9171.29947-1.00.html> [26 Feb 2001]

<sup>57</sup> Janet Kelly, “Thoughts on the Constitution: Realignment of Ideas about the Economy and Changes in the political System in Venezuela” paper presented at the Latin America Studies Association, March 16-18, 2000, Miami, Florida

<sup>58</sup> Ibid

“constitutional dictatorship.”<sup>59</sup> Anibal Romero, a political science professor at the Simon Bolivar Central University of Venezuela, stated “we’re seeing the personalization of power... we now have a government of one man—not of laws or parties.”<sup>60</sup> With the approval of the constitution President Chávez had the legal document to complete his political project and overhaul the political system in Venezuela.

The key to how much impact the Bolivarian constitution will have in Chávez’s revolution or on the future of Venezuela lies in the writing of the laws that accompany the articles approved<sup>61</sup> and in their implementation. The media and most critics believe that the constitution is too vague and its interpretation will come down to how the governmental branches controlled by the executive, or the president himself, interpret the laws. The following sections discuss the constitutional changes and show how the president and his allies have interpreted them since their introduction. The chapter concludes with an overall assessment of the state of checks and balances under Chávez and the new Constitution in Venezuela.

## **B. THE EXECUTIVE BRANCH OF GOVERNMENT**

In the past Venezuela had a weak presidential system, replaced every five years, and limited to only one term. The new constitution concentrates power in the executive branch through articles extending the presidential period from five to six years with the

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<sup>59</sup> CNN, “Venezuela’s constitutional change has observers wondering what’s next”, Caracas, Venezuela, 16 December 1999, accessed online at: <http://www.cnn.com/1999/WORLD/americas/12/16/venezuela.Chavez.02/> [23 Feb 2001]

<sup>60</sup> Anibal Romero as quoted by “The Chávez Revolution” Time magazine August 9 1999, TIME.com accessed online at: <http://www.time.com/time/magazine/article/0,9171,29947-1,00.html> [23 Feb 2001] and from notes taken from his class presentation at NPS

<sup>61</sup> Janet Kelly, “Thoughts on the Constitution: Realignment of Ideas about the Economy and Changes in the political System in Venezuela” paper presented at the Latin America Studies Association, March 16-

opportunity to be reelected; giving the executive the power to dissolve the National Assembly if it rejects his selection of a vice-president, and permitting the president to declare an state of exception and govern by decree on a broad range of matters. In contrast to this centralization, the constitution includes articles providing for the president to be evaluated by way of a popular referendum when he completes one half of his mandate.

The new constitution creates what it calls a “semi-presidentialist” system, by creating a position of executive Vice-president and permitting the president to dissolve the assembly if his choice for Vice president is rejected three times. The figure of the Vice-president goes beyond that of the traditional United States Vice presidential roles. According to the constitution, the Vice president shares power with the president.<sup>62</sup> Some of his functions are to act as the conduit for the federal government to state governors, to serve as the voice of the executive in the national Assembly, and to advise the president in the elaboration of executive policies to govern the country. So far, the vice president has not had much of an impact in the method of governance or on the power of the president.

Because the constitution allows the president to dissolve the legislature and to govern by decree, many argue “there is a disturbing degree of centralization and concentration of powers in the constitution.”<sup>63</sup> Hermann Escarrá, a leading constitutional

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18, 2000, Miami, Florida.

<sup>62</sup> Capítulo II, “Del poder Ejecutivo”, Constitución de la República Bolivariana de Venezuela, Caracas, Venezuela, 23 March 2000

<sup>63</sup> Colonel Glenn R. Weidner, U.S. Army “Challenges to the third wave of democratization in Latin America: the Military Dimension”, paper prepared for the conference on Challenges to Democracy in the

lawyer and member of the ANC, which wrote the constitution, argues, "It is disturbing that the President can dissolve<sup>64</sup> the Legislative branch... it is a dangerous faculty, it translates almost as establishing a constitutional dictatorship."<sup>64</sup>

Additionally, the new constitution allows extensive enabling laws to be approved by the National Assembly (AN). These laws can give the executive decree authority to rule in a wide range of areas (under previous constitutions decree power was limited to economic issues). The National Assembly passed this very broad enabling law in September 2000.

President Chávez has chosen not to appoint many members of his party to the cabinet and his inner circle, but rather to give most of the positions to those personally loyal to him, many of whom participated with him in the 1992 coup. Many are retired or active duty members of the military. Three of the nine cabinet level ministries have an active duty General Officer as the Minister, two more have retired military officers, in the rest either the deputy or high-level officials are active duty or retired military officers. The rest of the executive level institutions and state companies show the same matrix of military participation. Personal loyalty and the military chain of command mean that there are few critical voices within the government to provide a check on Chávez's power.

Chávez's centralized leadership style is also evident in his personal involvement in the drafting of the constitution. One of the central debates in that process was over

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Americas, The Carter Center, Washington D.C., 20 September 2000

<sup>64</sup>Hermann Escarrá as quoted in Sara Carolina Diaz, "Expertos cuestionan excesivo poder presidencial" El Universal, Caracas 17 December 2000 accessed online at: <http://www.eud>.

changing the name of the country from Republic of Venezuela to the Bolivarian Republic of Venezuela. There was large opposition to this name change, but Chávez insisted on the change, and in the end it was reintroduced into the constitution, along with a number of other changes rejected by the assembly but personally endorsed by Chávez.

President Chávez's personalistic leadership style, the broad powers given to him by the constitution and an executive branch of government completely loyal to him and his project, make this a very strong branch of government.

### **C. THE LEGISLATIVE BRANCH OF GOVERNMENT**

Chávez's behavior toward the legislature since assuming office, constitutional changes to the role of the legislature, and the composition of the new Assembly all call into question whether or not the legislature will be willing and able to act as an autonomous check on Chávez's power.

Upon assuming the presidency, Chávez showed disregard for the sitting legislature. Until the new constitution being written by the National Constituent Assembly (ANC) was approved by referendum, the existing bicameral Congress was to continue its functions as the legislative branch of government. However, President Chávez declared, that the ANC was "original" in its character and had much broader powers than just the drafting of the constitution. In particular, Chávez claimed that the ANC should supplant the ordinary legislative role of the existing Congress and even be given powers superior to those of the Congress. This act almost created a constitutional crisis before the constitutional process even began. The Supreme Court of Justice (CSJ)

dissolved itself, fearing an ANC take over, and was replaced by a temporary Supreme Justice Tribunal (TSJ), which consisted of the alternate members of the dissolved CSJ.

At the same time the existing congress ceased its functions to prevent Chávez from declaring an executive emergency that would allow him to dissolve congress and rule by decree.<sup>65</sup> The interim TSJ ruled in favor of president Chávez's "original character" petition for the ANC. This allowed the Constituent Assembly to take over all legislative functions until its mandate expired in February 2000. A transitional power was to continue to legislate until such time a permanent body was elected. In describing this incident, Peter Hakim, president of the Inter-American Dialogue in Washington, D.C., wrote, "There are reasons to be concerned about Chávez's commitment to democracy. His rhetoric is bombastic and intimidating. He's shown disdain for Congress and the courts ..." <sup>66</sup>

The principal constitutional changes affecting the role and functions of the legislative branch of government are the substitution of a bicameral legislature (consisting of a congress and senate) with a unicameral National Assembly, and the removal of legislative authority over military promotions. The unicameral structure of the legislature responds to the need to simplify procedures to draft laws, reduce expenditures, and eradicate duplication in administrative procedures. As a means of checks of balances, bicameral legislatures are generally more effective. If the congress is composed of two houses, the senate usually provides a check on the lower house, either because its

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<sup>65</sup> Howard Lafranchi, "Venezuela's democracy teeters" Caracas, Venezuela, The Christian Science Monitor, 30 August 1999, accessed online at: <http://www.csmonitor.com/durable/1999/08/30/p6s1.htm> [26 Feb 2001]

members are elected on a different basis than the lower house or because elections are staggered to maintain continuity and prevent the entire legislature composition from being affected by temporary shifts in public opinion.

In the elections, the official coalition, *Polo Patriótico*, an alliance between the *Movimiento Quinta Republica* (MVR) and *Movimiento al Socialismo* (MAS), obtained just over 60% of the seats in the Assembly (MVR holds 93 of the 160 seats and the MAS 6).<sup>67</sup> Unexpectedly the second political force in the current National Assembly, the party which everyone considered to be “dead”, was *Acción Democrática* (AD), with almost 20% of the seats (32 of 160). With over 60% majority, President Chávez and his coalition can easily pass legislation strictly on a party line vote. President Chavez’s coalition has been able to get the two-thirds (66.6%), which the constitution declares necessary to pass the enabling law and control nominations<sup>68</sup> (the presidential enabling law encompasses 80% of the laws). Although small, it opens up spaces that if taken advantage by the opposition, could become a factor in providing checks and balances or block passage to some laws that will be debated in the Assembly.

The National Assembly has its job cut out to debate and pass a large number of laws that emanate from the new constitution. Until now, the only significant law they have approved is the enabling law, giving Chávez broad decree authority. They have also

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<sup>66</sup> Ibid

<sup>67</sup> “Polo logró 60% de Asamblea Nacional” El Universal, Caracas, Venezuela, 31 July, 2000 accessed online at: <http://archivo.eluniversal.com/2000/07/31/31109DD.shtml191> [7 Mar 2001] The moral branch of government consists of the Attorney General, The Comptroller and the Ombudsman, the CNE consists of five principal members which are in charge of executing electoral processes, rules that apply to it, and keeping the databases for the electoral population

<sup>68</sup> Ibid

had to make a decision on how the members of the moral and electoral branches of government and magistrates for the new TSJ were to be selected, since this was not clearly specified in the constitution. This created a big controversy and debate amongst opposition members of the National Assembly as to the involvement of civil society in the selection process. Members of a new party called Primero Justicia (PJ) were instrumental in this debate. Some of the members of this party are well-versed constitutional lawyers, who advocated an active participation of society in the nomination of moral branch members and an improvement in the process for choosing the magistrates. In the end, the official coalition nominated the candidates for the moral branch and the National Assembly voted on them. For the magistrates, the Justice Commission of the ANC reviewed the applications of the candidates and selected them in a closed-door process, rejecting the constitutional interpretation advanced by Primero Justicia (PJ). The practice of selecting the members of these branches, by Chavez's led majority in the National Assembly, clearly does not live up to his participative vision by denying civil society any role in the nominations.

#### **D. THE JUDICIAL BRANCH OF GOVERNMENT**

The judicial system in Venezuela has been criticized as one of the most corrupt in Latin America. Since his election, President Chávez took an aggressive attitude towards the Supreme Court of Justice (CSJ), not only opposing every ruling or statement they made, but threatening to shut them down altogether. President's Chávez disdain for the traditional Supreme Court and the manner in which the new Supreme Justice Tribunal was selected call into doubt the ability of this branch of government to act autonomously.

When Chávez declared the original character of the ANC to exercise powers above their mandate to write the constitution, the ANC declared a judicial emergency and created an emergency commission. This commission stated, “ We declare the judicial branch of government in a state of emergency and reorganization. Our intent is to bring dignity to the judicial system, restore credibility and trust from the populace, design a fair system to assure transparency, independence and autonomy to individual judges, respect individual rights and respect the rule of law.”<sup>69</sup> Following this ANC declaration, the Supreme Court of Justice (CSJ) dissolved itself. Dr. Cecilia Sosa, the president of the CSJ, lamented the disintegration of the court by saying “The court simply committed suicide to avoid being assassinated. The result is the same- it is dead.”<sup>70</sup>

An interim Supreme Judicial Tribunal (TSJ) was appointed by the emergency commission of the ANC to substitute the Supreme Judicial Court (CSJ) after its dissolution. The “temporary” Judicial Tribunal, which was filled with alternate members from the CSJ, took over the judicial branch of government until a permanent body was selected under the new constitution. When the time came to appoint the TSJ’s permanent members, the Justice Commission of the National Assembly ratified most of the magistrates in their positions in a closed-door process. A member of president Chávez’s coalition leads this commission and the Polo Patriotic dominates the commission.

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<sup>69</sup> Aristóbulo Istúriz, ANC Vice-president, “La reorganización del Poder Judicial”, El Universal, Caracas, Venezuela, 20 August 1999, accessed online at: <http://www.archivo.eluniversal.com/1999/08/20/0006.shtml> [5 Mar 2000]

<sup>70</sup> Dr Cecilia Sosa, as cited by Howard Lafranchi, “Venezuela’s democracy teeters” The Christina Science Monitor, August 30, 1999 accessed online at: <http://www.csmonitor.com/durable/1999/08/30/ps6s1.htm> [26 Feb 2001]

The executive called on this “temporary” Judicial Tribunal to make some unprecedented decisions dealing mainly with the electoral processes and abuses thereof. The most well known decision was the postponement of the “megaelections” scheduled for 28 May 2000. That decision was the only time the TSJ has ruled against what seemed to be the will of the executive or other branches of government. Since then the TSJ, both the temporary body and the one selected by the National Assembly, has had to rule on the constitutional legality of every referendum, the legality of wording of the questions asked in those referenda, and in other actions by the executive. Although the majority of these petitions questioning the constitutionality of referenda and other acts were introduced by civil society organizations, the moral and electoral branches have also submitted petitions in an effort to check the power of the president. In all but the postponement of the elections the courts have ruled for the executive.

#### **E. THE MORAL AND ELECTORAL BRANCHES OF GOVERNMENT**

Hugo Chávez Frias has always believed that the classical scheme of governmental divisions of power (executive, legislative and judicial) contained in all liberal democracies is insufficient.<sup>71</sup> On Chávez’s insistence, the approved constitution established two new branches of power: the moral and electoral branches. These two autonomous branches are key to president Chávez’s vision of participative democracy. The moral branch, also known as the “people’s” branch is inspired by constitutional ideas expressed by Simon Bolivar during the 1819 Angostura Congress, which led to Venezuela’s first constitution. (Bolivar’s ideas were not approved during that constituent

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<sup>71</sup> Gloria Bastida, “A la medida del “Comandante”” commenting on “Ideas fundamentales para la Constitución Bolivariana de la V Republica,” del Comandante Hugo Chávez Frias, Caracas, Venezuela, 5 August 1999. Accessed online at: <http://www.to2.com/dossvenezuela/perfil/Agenda/pryecto.htm> [26 Feb

process.)<sup>72</sup> The moral branch would consist of a triumvirate formed by the Attorney General, the Comptroller General, and the head of a new institution, the public Ombudsman. Their functions would be to listen to people's complaints and investigate abuses of power and corruption, including human rights violations. The moral branch, Chávez stated vehemently, "Must be completely autonomous and it cannot be subordinated to any other branch of government."<sup>73</sup>

The other branch created under the 1999 constitution is the electoral branch, based on Bolívar's ideas, which had been introduced in the 1826 constitution of Bolivia. This branch will consider everything relating to the increased number of electoral processes permitted by the new constitution, such as referenda, initiatives and recalls.

As President Chávez wrote in his draft constitutional document, "An autonomous electoral branch assures us principles of legitimacy and representativeness."<sup>74</sup> The CNE has never been a separate branch under previous governments. President Chávez elevates it to a separate autonomous branch as part of his model of participative democracy in which the direct participation of the people in governing is central.

President Chávez appointed people he thought would be sympathetic to his project to the moral branch. For example, he chose Javier Elechequeirra, who defended him while he was in prison for the position of Attorney General. He acted independently in the investigation of corruption cases against members of Chávez's government, a

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<sup>72</sup> Ibid

<sup>73</sup> Ibid

<sup>74</sup> Ibid

move that caused him to be under fire by the executive for lack of loyalty. The corruption allegations were brought up initially by Chávez's fellow coup leader and at the time, director of the state intelligence police, Jesús Urdaneta Hernandez. The Attorney General and other members of the moral branch investigated most allegations and found sufficient evidence to bring the Minister of Interior and Justice, Luis Miquelena, leader of MVR and Chávez's political mentor, to a hearing in front of the TSJ. (Miquelena has recently been named again Minister of Interior and Justice, by president Chávez). After listening to both sides, the TSJ ruled against the Attorney General and in favor of Miquelena's position, exonerating him of all corruption allegations. In sum, the Attorney General, who in Chavez's participative vision of democracy is supposed to represent and defend the citizens, has been willing to act independently of the executive, but has not been an effective check because other branches of government have opposed him.

The MVR-led majority in the National Assembly initially selected all the electoral branch members, with no representation from other parties in it. The members of the CNE then dismissed key personnel to replace them with loyalists. The members of the CNE all resigned after their incompetence led to the postponement of the megaelections in May 2000. The National Assembly again selected a second CNE but, as described earlier, there was more participation by NGOs, civil society and the media in the selection process. The majority of the second CNE resigned prior to the Labor Unions referendum. Two of them resigned to return to private life, while two of them resigned claiming executive interference with their functions.

President Chávez and his party dominated the appointment processes to the moral and electoral branches, designating party members and other people sympathetic to the

government project to the posts. On occasions, the appointees acted in a partisan matter that called into question the autonomy of these branches from the executive (e.g., investigating alleged corruption within the government, introduction injunctions for suspension of referenda, etc. On other occasions, despite their predisposition toward Chávez, members of the moral and electoral branches found it necessary to challenge him. These independent efforts were largely ineffectual. The moral branch in acted independently in investigating corruption allegations and members of the electoral branch resigned over the labor union referendum rather than oppose Chávez directly

This chapter examined the roles and functions of each branch of government and evaluated the extent to which President Chávez or his political party (MVR) controls each of the branches of government. In the executive branch, constitutional articles centralize power in the president by extending his term and allowing reelection, the dissolution of the National Assembly, and broad decree authority. In the legislative branch, the MVR majority has delegated extensive power to the president. The autonomy and independence of the judiciary is called into doubt by the manner in which the members of the TSJ were selected, their repeated rulings in favor of the executive, and the level of corruption that exists in the judicial system. Also the autonomy and independence of the Moral branch is questioned when a partisan majority in the National Assembly denies civil society a vital role in the nomination process, and selects long time loyal activists to fill the positions. The CNE's independence is questionable, because a partisan majority also made their selection and because it is not clear if they will act transparently, because there is no representation from other parties, in the enforcement event of contested elections,

President Chávez's disregard for the independent and autonomous functions of these branches is inconsistent with the models of democracy advanced in this thesis. It is not inconsistent with the minimal notion of an electoral democracy, since elections are held periodically. The disregard for horizontal accountability clearly violates the more expansive definition of liberal democracy, but is consistent with models of delegative democracy. It matches his own vision of participative democracy by creating two additional branches of government, which represent the people and assign them the role of providing checks on the government. However, it violates it by denying n civil society's participation if the selection of the two branches created exactly for that purpose to represent the people.

## V. MILITARISM IN VENEZUELA

Venezuela has always been considered a sound consolidated democracy in Latin America. The military has been subordinated to civilian authorities since the mid 1960s, and has not acted in the political and social arenas since the military dictatorship of General Marcos Perez Jimenez was overthrown in 1958. This began to change when the military was used to repress widespread looting in Caracas (the “Caracazo”) in February of 1989 and when sectors of the military attempted coups in February and November 1992. However, even during those grim hours for democratic Venezuela, the military’s “institutionalists” did not permit the “radical” coup plotters to subvert civilian rule. The military continued its loyal subordination to civilian leaders, even though these governments had led Venezuela to very tough years, economically and socially.

However, all of this has changed since President Chávez took office in February 1999. He has steadily been “militarizing” society, politics and government, giving a more active role to members of the Armed Forces in each of these three arenas. President Chávez in his governmental agenda calls for a fusion between the Armed Forces and the people as the key to combat all the problems Venezuela has had for over 40 years and to care for its own citizens.<sup>75</sup> As President Chávez often says, “I will govern Venezuela, with one hand in the streets and the other in the Army Bases”<sup>76</sup> The quote illustrates the nature of President Chávez’s government as a fusion between military and civilians.

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<sup>75</sup> “La Propuesta de Hugo Chávez, para transformar a Venezuela una Revolución Pacífica, Caracas, Venezuela, September 1998, accessed online at <http://www.cordiplan.gov.ve/prog-gob.htm> [20 Jan 2000]

<sup>76</sup> Análisis “Las manos en las calles y cuarteles” El Universal, Caracas, Venezuela 22 January 2000

Anibal Romero a professor at the Simon Bolivar University states, “we are going down a very dangerous path. The new president is military populist”<sup>77</sup> Some other critics argue that “President Chávez’s actions send the wrong message at a time when Latin America’s fragile democracies are struggling to keep the military in their barracks and out of politics.”<sup>78</sup> Michael Shifter, a senior fellow at the Inter- American Dialogue a think tank in Washington, D.C. refers to Chávez’s actions as “an invitation to greater politicization of the military, which is precisely what led to some of the worst aspects of the authoritarian period in Latin America.”<sup>79</sup>

This chapter details the changes in the role of the military in Venezuela since President Chávez’s rise to power. It uses Alfred Stepan’s definition of military prerogatives to assess the changes in the military’s position. Stepan defines the dimension of military institutional prerogatives as “ those areas where, whether challenged or not, the military as an institution assumes they have an acquired right or privilege, formal or informal, to exercise effective control over its internal governance, to play a role within extra military areas within the state apparatus, or even to structure relationships between the state and political or civil society.”<sup>80</sup> The chapter evaluates the military role within the state apparatus (both the executive and judiciary), in politics, in society, and in its

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accessed online at <http://www.eud.com/2000/01/22/22110CC.shtml> [23 Feb 2000]

77 Anibal Romero as cited in CNN, “Expansion of military’s role prompts fears in Venezuela” 20 February, 1999 accessed online at: <http://www.rose-hulman.edu/~delacova/venezuela/venezuela-military.htm> [27 Feb 2001]

78 CNN, “Expansion of military’s role prompts fears in Venezuela” 20 February, 1999 accessed online at: <http://www.rose-hulman.edu/~delacova/venezuela/venezuela-military.htm> [27 Feb 2001]

79 Michael Shifter, as cited in CNN, “Expansion of military’s role prompts fears in Venezuela” 20 February, 1999 accessed online at: <http://www.rose-hulman.edu/~delacova/venezuela/venezuela-military.htm> [27 Feb 2001]

80 Alfred C. Stepan, Rethinking Military Politics, Brazil and the Southern Cone Princeton University

own internal governance. By utilizing the Armed Forces in his political project, Chávez is damaging a long tradition of democracy and civil-military relations. The chapter concludes by evaluating the potential threat this "militarization" poses to other countries in the region.

#### **A. THE MILITARY IN GOVERNMENT**

In most democracies, presidents appoint technocrats or faithful party members to their cabinets and other state positions. In President Chávez's case, his political party and inner circle is comprised largely of military members. President Chávez has used active and retired members of the Armed Forces to fill most key positions in the cabinet and other important state enterprises.

Because President Chávez does not come from any of the traditional parties that governed Venezuela, he has relied on active duty and retired military officers to run the government, appointing over 50 of them to key positions. Most of the retired members were direct participants, with Chávez, in the 1992 coups (many were originally members of the Movimiento Bolivariano Revolucionario 200). In three of nine cabinet ministries there is an active duty military officer, in the other six the deputy is retired or active duty military. Also there are military members in key government agencies such as the Central Budget Office; the state-run oil company, Petroleos de Venezuela (PDVSA) and its U.S. subsidiary, CITGO; and the Venezuelan Corporation of Guyana (CVG), which includes the state Aluminum and Energy Companies (ALCASA and SIDOR).

Coming from a military and not a political background it was almost logical for President Chávez to rely in his trusted friends in the military. President Chávez knows the Armed Forces and their capabilities better than any other institution. Chavez and much of the population believe that traditional politicians are corrupt and responsible for most of Venezuela's problems. In contrast, the people recognize the Armed Forces as a trusted, disciplined institution. Despite the 1992 coup attempts and corruption scandals in 1994 and 1995, the military is still considered one of the most trusted institutions in Venezuela.<sup>81</sup>

There are a number of problems with relying mostly on military members to govern. It creates dissatisfaction amongst able civilians and within the military about the basis for government appointments. Many argue that becoming a member of government is no longer in the form of meritocracy, but of loyalty and membership in the armed forces. More importantly, if the executive issues a directive, because of the verticality of the chain of command in the military, it would be almost considered an order issued by the Commander in Chief. In any case, if the active duty military member opposes, it can be considered treason. Most importantly, is the question of whether democracy can "coexist with the militarization of civilian institutions?"<sup>82</sup> Michael Shifter stated, "Latin America should have learned by now, and most countries have, that military governments are not the answer."<sup>83</sup>

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<sup>81</sup> Poll conducted by Datanalysis, Julio 1999 "en cual institucion confia mas usted?" El Nacional, Caracas accessed online at <http://www.datanálisis.com/ve/encuesta.asp> [23 Feb 2000]

<sup>82</sup> CNN, "President Chávez accused of militarizing Venezuela" 21 July 1999, accessed online at: <http://www.rose-hulman.edu/~delacova/venezuela/venezuela-military.htm>. [26 Feb 2001]

<sup>83</sup> Michael Shifter as cited in CNN, "President Chávez accused of militarizing Venezuela" 21 July 1999, accessed online at: <http://www.rose-hulman.edu/~delacova/venezuela/venezuela-military.htm>. [26

## 1. The Military and the Justice System

As in many other countries in Latin America, in Venezuela Organic Law of the Armed Forces (LOFAN) and the Military Code of Justice (MCJ) contain articles giving military courts jurisdiction over crimes committed by military personnel. Likewise, military courts also have jurisdiction over crimes committed by civilians but seen as crimes against the military. This situation can lead to impunity for crimes committed by military personnel and the violation of the civil rights of civilians by military courts.

The members of the military that were accused of committing human rights violations during the floods in Vargas state in December 1999 were indicted but have never been brought to justice. The military along with the DISIP have used every kind of delay tactic and bureaucratic scheme to obstruct the investigations of these crimes by human rights nongovernmental organizations and the moral branch of government.<sup>84</sup> In January 2000, Professor Pablo Aure, a law professor at the University of Valencia, wrote a letter to *El Nacional* a leading newspaper in Venezuela in which he called the armed forces “castrated and servile” and criticized military leaders for “their servitude and for accepting with nods everything President Chávez assigns them.”<sup>85</sup> Armed intelligence agents arrested Aure at his home and took him to a military prison where he spent the night under heavy interrogation. Aure, a civilian, has been charged under military law with insulting the armed forces, a crime that under the Military Criminal Code of Justice

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<sup>84</sup> Migdalis Canizales V., “Familiares de los desaparecidos mantienen la esperanza de hallarlos”, *El Universal*, Caracas, Venezuela, 8 January 2001 accessed online at: <http://www.eud.com/2001/01/08/08441DD> [8 Jan 2001]

<sup>85</sup> Scott Wilson, “As military men get panties in the mail, a law professor lands in jail”, *Washington Post* foreign Service, January 19, 2001, accessed online at <http://washintongpost.com?wp>

can carry up to 8 years in military prison.<sup>86</sup> Former MOD Eliécer Hurtado, said, "What this man wrote was not criticism, it was an insult."<sup>87</sup> Aure and leading human rights NGOs accused the military of violating the professor's human rights. Members of the moral branch of government are investigating all accusations. The charges are still pending. Unless the Supreme Justice Tribunal (TSJ) rules that the Military Code of Justice conflicts with the interpretation of the constitution, Aure will be court-martialed<sup>88</sup> and most likely convicted.

Military authorities also possess jurisdiction over civilians in the two Theaters of Operations (TOs) that the military operates along the borders with Colombia to prevent the spill over of conflict from Colombia's internal conflict. The military is responsible for internal security in these areas and thus plays the role of both police and judge. Judicial authority lies with the military commander and applies to all civilians for any act against the law committed there.

## **B. THE MILITARY IN POLITICS**

The ANC and 1999 constitution have changed regulations that govern the political roles and functions of military personnel and the military institution. The LOFAN prohibits military personnel from active involvement in political activity and running for or holding political office, but departs from previous legislation by granting the members of the Armed Forces the right to vote. It also takes away from previous constitutions the language dealing with the military being apolitical and non-deliberative.

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[dn/world/americas/southamerica/venezuela/A599918-2001Jan](http://www.dni.gov/dn/world/americas/southamerica/venezuela/A599918-2001Jan) [25 Feb 2001]

86 Ibid

87 Ibid

Another very difficult issue, approved by the Chávez-led majority in the National Constituent Assembly (ANC), is the reinsertion of the participants in the 1992 coups into the Armed Forces.<sup>89</sup> This could eventually bring internal division with the non-coup participating members. This section examines these articles of the new constitution and determines if they affect the traditionally established civil-military relations in Venezuela.

### **1. Military Participation In Elections**

Article 328 of the new “Bolivarian” Constitution reads as follows: “Active duty members of the Armed Forces have the right to vote, according to established electoral laws...”<sup>90</sup> Some harsh critics of this article feel that “the military vote is one of the last steps to convert the Army into an active political force and into the true political party of Chávez.”<sup>91</sup> Other observers feel that the Armed forces lack the maturity to vote and that it could tarnish the transparency of the election process.<sup>92</sup> Although military personnel have the right to vote in many democracies, this “newness” of this right in Venezuela raises many unanswered questions. How can politicians be prevented from conducting political activities in military bases? While the constitution article additionally provides

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88 Ibid

89 Decreto de reincorporacion de golpistas a la FAN, Asamblea Nacional Constituyente, Caracas, Republica Bolivareana de Venezuela, Enero 2000 accessed online at <http://politica.eud.com/2000/02/30/270100a.html> [3 Mar 2000]

90 Titulo VII De la Seguridad de la Nacion, Capitulo III, De la Fuerza Armada Nacional, Constitución de la Republica Bolivareana de Venezuela, 1999, Caracas, Venezuela, 23 March 2000.

91 Manuel Caballero en Rossana Marotta “El voto de la Bota, Libre conciencia, no deliverancia” El Universal, Caracas, Venezuela, February 2000 accessed online at <http://politica.eud.com/infromespecial/votomilitar/implicaciones.html> [28 Feb 2000]

92 Carlos Delgado Chapellin, in Tanni Martinez Reyes, “Venezuela carece de cultura electoral” El Universal, Caracas, Venezuela, February 2000 accessed online at <http://politica.eud.com/informespecial/votomilitar/planrep2.html> [28 Feb 2000]

regulations and laws prohibiting military personnel from running or holding political office and forbidding political parties activities in military bases, it is not clear that these regulations are being obeyed.

During the last presidential campaign there were some “gray” incidents that illustrate how easy it is for an official candidate (especially if he comes from within the ranks) to conduct political activism in the military bases. A number of incidents demonstrate this point. President Chávez (now also Professor Chávez), teaches Military Ethics to the fifth year seniors (voting age citizens), behind close doors at the Venezuelan Army Military Academy. Some observers say he is using his classes to do political campaigning within the military institution.<sup>93</sup> He is also said to have used tactical and garrison commanders to conduct polls within military bases to gauge support for his presidency (sensing sessions).<sup>94</sup> These examples show that by utilizing the power of the official or presidential pulpit, it would be very easy to conduct political activity within the military, something that would not be permitted to opposition parties. The former MOD, General Raul Salazar, vowed to uphold the armed forces’ respect for civilian rule and laws, stating “Bring me one officer who inscribes himself in a political party and I will personally remove him.”<sup>95</sup> But yet, when the *Movimiento Quinta República* (MVR)

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93 Javier Ignacio Mayorca, “Chavez exhorto a los cadetes a dar la batalla por la verdad”, El Nacional, Caracas, Venezuela, 24 March 2000, accessed online at: <http://www.el-nacional.com/eln24032000/pd1.shtml> [24 Mar 2000]

94 Alicia LaRotta Moran, “Chávez hace sus propias encuestas en cuarteles” El Universal, Caracas, Venezuela, 31 March 2000 accessed online at <http://universal.eud.com/2000/03/31/31117CC.shtml> [31 Mar 2000]

95 General Raul F. Salazar, Former Minister of Defense as cited in CNN, “President Chávez accused of militarizing Venezuela” 21 July 1999, accessed online at: <http://www.rose-hulman.edu/~delacova/venezuela/venezuela-military.htm> [27 Feb 2001]

nominated two active duty Colonels as candidates for state governorships, the MOD rapidly expedited their resignations for the armed forces to “comply” with the laws of no active duty running for office or affiliating to political parties.

The division and controversy engendered within the Armed Forces in the last presidential elections shows how even retired military candidates can contribute to the politicization of the military. The two leading candidates in the presidential elections in the summer of 2000 were the former coup leaders, President Chávez and Francisco Arias Cardenas. This led to a division within the Armed Forces between the “Chavistas” and the “Arianos” that reinforced the coup-inspired division between the rebels and the institutionalists. The impact that the election has had on civil military relations is great. By involving the military in the political debate, a division inside the armed forces has inevitably occurred. Within the Armed Forces there are those that support the government and those that oppose it. This is dangerous for the future of democracy in Venezuela.

Two other articles in the new constitution undermine the non-partisan role the military should play in a democracy. One article eliminates language that assigns the military the duty of defending the constitution and democratic institutions.<sup>96</sup> The other article eliminates the language, which appeared in previous constitutions, that defines the role of the armed forces as apolitical and non-deliberative. This leads to the interpretation that this constitution permits members of the military a more active and political role and to criticize the government in public. Since this constitution was approved in December

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<sup>96</sup> Jennifer L. McCoy, “Demystifying Venezuela’s Hugo Chávez” Current History, Feb 200, Vol.99, no 634

1999, three different members of the armed forces have publicly criticized the president's actions and the role of the armed forces. All three were immediately arrested and eventually removed from the armed forces. The actions taken against these members, shows that this article is not to be interpreted as permitting criticism of the government. In contrast two General Officers who called for more "revolution" in public, and were rewarded by being given better assignments

## **2. The Legacy of the Coup**

The reintegration of coup participants in to the Armed Force, although not a constitutional article, was decreed by the Constituent Assembly. This action not only exacerbates divisions within the Venezuelan Armed Forces, but it also sends a very bad signal about the legitimacy of coups. There have been several reintegrations of coup participants since this was determined by the ANC. At a military ceremony, President Chávez called those he was reintegrating "patriots and anonymous heroes"<sup>97</sup>. Those brought back in returned at the same rank and salaries as those who did not participate in the coups or those who remained in the military after the coups. The test to this article will come later this year when those reintegrated members go in front of the promotion boards. Since the President is the deciding authority on promotions, without any civilian oversight, how fair and transparent will the system be for the officers that did not participate in the coup? A very dangerous division within the armed force between the coup participants and those who opposed it or did not participate can be exacerbated.

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<sup>97</sup> CNN, "President Chávez accused of militarizing Venezuela" 21 July 1999, accessed online at: <http://www.rose-hulman.edu/~delacova/venezuela/venezuela-military.htm> [26 Feb 2001]

President Chavez on many occasions has stated that his mandate was given to him by the failed coup and by the people. For Chavez the failed coup was the beginning of the “democratic revolution” in Venezuela. He also stated, “ That day has more relevance to Venezuela than independence day...”<sup>98</sup> He ordered that the story of the Bolivarian revolution, and in particular the coup, be part of the curriculum to be studied by the military cadets at the Venezuelan Military Academy.<sup>99</sup> Traditionally the 23<sup>rd</sup> of January, the day in 1958 that the dictatorship of General Perez Jimenez was vanquished, was celebrated as the day democracy began in Venezuela. In 2001, for the second year in a row, January 23<sup>rd</sup> went by without any official involvement to commemorate this day by members of the executive. This contrasts with the four days of celebrations and parades that commemorate the failed coup.

By making the failed coup the heart of his mandate, and letting those who rebelled against the legitimately established regime back into the Armed Forces, President Chávez sends strong signals about the character of his government. Also, Venezuela was the only country in Latin America that did not condemn the coup-de-état that brought down president Mahuad in Ecuador in January 2000. In fact, President Chávez praised the military and rebellious indigenous population in Ecuador, for standing up against oppression. He said, “What I saw in Ecuador was the 25,000 Indians and the

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98 Eugenio Martinez, “Por 500 años debe celebrarse el 4F”, El Universal, Caracas, Venezuela, 5 February 2001, accessed online at: <http://archivo.eluniversal.com/2001/02/05/05102.shtml> [6 Mar 2001]

99 Alfredo Meza, “Album de armas en la Academia Militar, Lo de Revolución Bolivariana forma parte del curriculum”, El Nacional, Caracas, Venezuela, 4 February 2001

military together leading a rebellion against a regime and system that has oppressed them..."<sup>100</sup> -- a very disturbing statement for many democratic observers.

## **C. THE MILITARY IN SOCIETY**

In addition to increasing the role of the military in government and politics, President Chavez has used the military to execute social programs to assist in the development of the country. Some of the most notable examples are Plan Bolivar 2000 and the Bolivarian schools.

### **1. Plan Bolivar 2000**

President Chávez announced that he would be deploying the Armed Forces in what he termed "Plan Bolivar 2000". The initial intent of this Plan was to deploy the Armed Forces as a temporary measure to "jumpstart" other institutions that had been inefficient, corrupt and made "rotten" by 40 years of partyarchy in Venezuela.<sup>101</sup> President Chávez dismisses any criticisms to his plans by saying that "the Armed Forces should be prepared to work for the development, the peace, and the progress of our people".<sup>102</sup> Plan Bolivar 2000 is an ambitious social plan to use the Armed Forces in the reactivation of the economy and the development of the country.

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<sup>100</sup> Larry Rother, "Ecuador's Coup Alerts Region to a Resurgent Military" The New York Times, January 30, 2000 accessed online at <http://www.nytimes.com/library/world/americas/013000ecuador-coup.html> [3 Feb 2001]

<sup>101</sup> Gitanjali Suárez S. "Bolívar 200 une a militares y civiles", El Nacional, Caracas, Venezuela, 19 February 1999 accessed online at: <http://www.el-nacional.com/reportajes/1999/02/19> [5 Apr 2000]

<sup>102</sup> President Hugo Chávez as cited in CNN, "Expansion of military's role prompts fears in Venezuela" 20 February, 1999 accessed online at: <http://www.rose-hulman.edu/~delacova/venezuela/venezuela-military.htm> [26 Feb 2001]

The Plan is a massive civil-military undertaking consisting of three phases: *Plan Pro-Pais* (short term), *Pro-Patria*, and *Pro-Nacion* (long term).<sup>103</sup> Each phase could count with the deployment of up to 50,000 troops in 26 newly developed “social theaters of operations” all across Venezuela. The military will be in charge of these social theaters, and in determining the priorities of the projects and missions. The local garrison commander manages his own budget and coordinates directly with local civilian authorities.

The first phase, *Pro-Pais*<sup>104</sup>, is designed to take care of the most urgent needs. It called for installation of ambulatory hospitals to vaccinate the poor and provide dental care, cleanup of gutters and buildings, small construction projects and road repair, opening of “social routes” (air routes using Venezuelan Air Force transportation aircraft to allow the poor to move around Venezuela), and even soldiers setting up local markets to sell cheap produce.

The second phase, *Pro-Patria*,<sup>105</sup> encompasses medium to long-term projects. It will continue the projects of medical and dental attention, improvement and infrastructure, social routes and the “popular” local markets. In this phase more complex projects such as employment and literacy programs (Plan Zamora 2000) will be undertaken. The Venezuelan Navy will start a fishing project that instructs citizens to fish as well as providing fish at low prices. Finally, *Plan Casicare 2000*<sup>106</sup> is a project that

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103 Gitanjali Suárez S. “Bolívar 200 une a militares y civiles”, El Nacional, Caracas, Venezuela, 19 February 1999 accessed online at: <http://www.el-nacional.com/reportajes/1999/02/19> [5 Apr 2000]

104 Ibid

105 Ibid

106 Ibid

deals directly with indigenous populations by improving the infrastructure in their communities, including the laying of electricity lines and opening road networks to give them access to other communities.

The third stage, *Pro-Nacion*<sup>107</sup>, is the long-term phase of Bolivar 2000. During this phase major infrastructure projects will be undertaken, especially the development of two major geo-political axes in the long-neglected southern zone of Venezuela. For example, the Orinoco-Apure Axis focuses on developing infrastructure in the Amazonian basin, an area that is important for defending national borders.

When Bolivar 2000 was first put into action, its acceptability was very high. Many observers knew of the capabilities and equipment of the Armed Forces and praised the fact that they were now being used to benefit the country. Many local governments were pleased with the efficiency of the troops and happy that these projects were being done (and funded) by the central government. Speaking about Plan Bolivar 2000, former Foreign Affairs Minister Jose Vicente Rangel stated, “Can a country with the needs of Venezuela give itself the luxury of having unused installed capacity, like personnel from the armed forces? If we need engineers, sociologists and lawyers, must we dispense with them simply because they wear a uniform?”<sup>108</sup> Many military officers welcomed their new role. General Victor Cruz Weffer, of the newly created Corps of Engineers and commander of one of the social theaters, said, “We’ve been underutilized. We have the

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107 Ibid

108 Jose Vicente Rangel, Foreign Affairs Minister as cited in CNN, “President Chávez accused of militarizing Venezuela” 21 July 1999, accessed online at: <http://www.rose-hulman.edu/~delacova/venezuela/venezuela-military.htm> [26 Feb 2001]

capacity, the will and the organization to do a lot of things..."<sup>109</sup> But not all members of the military felt the same way; in fact reaction to the new roles and functions has been mixed.

The honeymoon period for Plan Bolívar 2000 was short lived. Some of the projects began to stall, mainly because the same troops used for the Plan are also used to guarantee security and logistics during elections. Since Venezuela has had four elections and three referenda in two years, the troops have only been able to devote themselves part time to civic actions tasks.

When the projects stalled, problems with the entire civic-action project began to be brought to light. One of the main problems is that garrison commanders are in charge of all the projects and also the funding of them. Some local government officials complain that monies that were due to their governments are now being managed by the military. In addition, the "special funds" that go directly to the military commander are not subject to accounting inspections. Many perceive this as corruption. The biggest problem arising from this project is that because the military members are in close contact with the citizens, it has given them a platform to do political proselytism and, in two cases, launch the candidacy of active-duty military members to the positions of state governors.<sup>110</sup> (When their nominations were accepted by the CNE, the officers were allowed to resign from the Armed Forces.)

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<sup>109</sup> Tim McGirk "The Chávez Revolution", Time Magazine Latin America, Vol. 154, No. 5, 9 August 1999, accessed online at: <http://www.time.com/time/magazine/article/0,9171,29947-1,00.html> [23 Feb 2001]

<sup>110</sup> Guido Grocco's "La Politización militar al descubierto" Venezuela Analítica, Caracas, Venezuela 3 March 2000, accessed online at <http://www.analitica.com/va/politica/opinion/2670438.asp> [24 Nov 2000]

Criticism of the civic action program has also come from within the military. Former Minister of Defense Ochoa Antich, state, “ The civic actions have depleted our combat readiness. It is worrisome. This is an unhealthy politicization of the military with serious consequences for their professional qualities and for national defense”<sup>111</sup> Additionally, some of the tactical commanders have expressed concerns about spending all their time doing civic actions operations and election support.<sup>112</sup> They fear that they are losing their ability to conduct their tactical missions. President Chávez has often told the Armed Forces when explaining to them their participation in this plan, that they have something society lacks (“discipline”) and that the biggest security threat to Venezuela is not external but within their society.<sup>113</sup>

## **2. The Bolivarian Schools**

President Chávez has also employed the military to run the Bolivarian Schools, the “educational vanguard of his social revolution”. The plan is for the Bolivarian schools to replace regular public schools, which are attended by seventy percent of school age children. They offer a full-day program, including after school child care, breakfast, lunch and a snack, and the children have access to military health providers. The health team of pediatricians, a social worker, a nutritionist and four psychologists, all report to a colonel in charge of the school.<sup>114</sup>

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<sup>111</sup> Fernando Ochoa Antich, “Gobierno Militar”, El Universal, Caracas, Venezuela, 14 February 2000, accessed online at: <http://universal.eud.com/1999/05/14/000010.shtml> [14 Feb 2000]

<sup>112</sup> Carlos Blanco, "Carta de un Venezolano a sus compatriotas cadetes." El Universal, Caracas, Venezuela, 01 April 2000 accessed online at <http://www.universal.eud.com/2000/04/01/01114zz.shtml> [2 May 2000]

<sup>113</sup> Javier Ignacio Mayorca “ En 1999 fueron sentadas las bases para reestructurar a la milicia” February 2000 accessed online at [http://www.el-nacional.com/especiales/primer\\_a=o\\_Chávez/en\\_1999.asp](http://www.el-nacional.com/especiales/primer_a=o_Chávez/en_1999.asp) [31 Mar 2000]

<sup>114</sup> Larry Rother, “Salutes. Some Skeptical, as Schools go ‘Bolivarian’, The New York Times, 9

In most of the Bolivarian Schools, classes are instructed by civilian professors, and the books and class contents are still the same as all others schools. However, Ms. Maria Uribe, the first coordinator of the Bolivarian schools program, states “there are plans to update the texts and classes in order to adapt the schools to the new constitution and the needs of the nation<sup>115</sup>” This update in texts and the entire Bolivarian schools program have been criticized by many. Guillermo Moron, a well-known historian and educator reject this program as “purely political, and it opens up the way to ideological indoctrination and militarization<sup>116</sup>”. Others criticize the entire program not only for the militarization of education but what they call the “Cubanization” of education. The oil cooperation agreement President Chávez signed with President Fidel Castro in October 2000 includes “Cuban cooperation in the consolidation of the Bolivarian schools, through joint teacher training and curriculum development programs.”<sup>117</sup> The Bolivarian schools have also been criticized as another social program that utilizes the military in a role that hinders their ability to perform their primary mission of defending the nation.

#### **D. STRUCTURE AND INTERNAL GOVERNANCE OF THE MILITARY**

Since President Chavez came in to the government there has been a tremendous debate about the structure and internal governance of the military. The intent of this reorganization makes the force into a joint single force, with one single doctrine, one single budget and integrated unity of command. The once complicated intelligence apparatus will be consolidated into one branch under one person. The models that have

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November 2000 accessed online at: <http://www.nytimes.com/2000/11/09/world/09VENE.html>

115 Ibid

116 Ibid

117 Ibid

been studied for this reorganization are the Cuban model and the Prussian model.<sup>118</sup> Critics of this reorganization note that unifying under one command creates an element that responds to only one person, the Commander in Chief. Although many militaries are shifting to unified commands, under a Joint Chiefs of Staff, in the case of Venezuela there is fear that the president is taking advantage of this reorganization to further politicize the Armed Forces and create a powerful instrument that will serve his political purposes.<sup>119</sup>

### **1. Promotion Authority**

Article 330 of the Constitution gives the Commander in Chief of the Armed Forces (the President) the exclusive power to promote officers from a list submitted by the service chiefs through the Minister of Defense (MOD).<sup>120</sup> In the past the Senate had to approve this list, after a lengthy process in which each component Commander presented the list to the Armed Services Committee of the Senate. The President was then given the already approved list for signature and execution. The new Constitutional article eliminates any civilian check and oversight to the president's authority.

In addition to the centralization of authority over the military that this entails, it also raises questions about the level of civilian control over the armed forces. President Chávez calls himself “the first soldier of the Republic”<sup>121</sup> and is often seen in public and official ceremonies wearing his Battle Dress Uniform (BDUs) and distinctive red beret.

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<sup>118</sup> Ley Organica de La Fuerza Armada (LOFAN), Decreto de la Asamblea Nacional Constituyente accessed on line at: <http://www.eud.com/proyectos> [3 Mar 2001]

<sup>119</sup> Ibid

<sup>120</sup> Titulo VII De la Seguridad de la Nacion, Capitulo III, De la Fuerza Armada Nacional, Constitución de la Republica Bolivareana de Venezuela, 1999, Caracas, Venezuela, 23 March 2000

<sup>121</sup> President Chávez inaugural speech given on 02 February 1999, at the Congressional Palace,

He tells those who ask him why, “that he is and will always be a soldier”. Thus, although the Armed Forces are subordinated to the executive the fact that Chávez considers himself military rather than civilian, leads some to some confusion about whether the military is subordinated to civilian control.

## **2. Reorganization of the Armed Forces**

According to the Bolivarian Constitution, the Armed Forces must reorganize into a single joint force. The initial concept of this reorganization makes the chain of command as follows: at the top would be the Minister of Defense, and in order of hierarchy the Armed Forces Inspector General and Chief of the General Staff. There would be no separate component chiefs. The intent here is to make the Armed Forces into a single force, with one single doctrine and budget and integrated unity of Command. The once complicated intelligence apparatus will be consolidated into one branch, under one person.

Critics of this reorganization note that unifying the forces under one Command creates an element that responds to only one person, the Commander in Chief. Although many militaries are shifting to unified commands, under a Joint Chief of Staff, in the case of Venezuela there is fear that President Chávez is taking advantage of his particular situation to create a powerful instrument that will serve his political purposes.<sup>122</sup> There is also concern about which service would have greater leverage at the top. Because of President Chávez’s past service in the Army. Many observe that the Army is becoming the predominant service, which is causing some dissension among members of the other

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Caracas, Venezuela accessed online at <http://www.bitbiblioteca.com>

122 Col (GN) Luis Morales Parada en Eucaris Perdonó Orsini “Chávez está llevando a la FAN a ser una

services. Former Minister of Defense, General Eliécer Hurtado emphatically denied this.<sup>123</sup>

*a. Civilian Minister of Defense*

During the celebrations of the failed coup in February 2001, President Chávez surprised all by announcing the designation of his former Foreign Affairs Minister, Jose Vicente Rangel, to be the new Minister of Defense (MOD). He was to become the first civilian in that position in Venezuela's democratic era. While this might be considered an extremely positive step, because it is the pinnacle of the military subordination to civilian authority, two factors undermined its impact. First, President Chávez's choice of minister led many to believe that Chávez was less interested in securing civilian control of the military, than in actively politicizing the armed forces and converting them into a political party that would serve Chávez's "socialist" revolution. Jose Vicente Rangel is a well-known communist, with clear affection for Cuba and the Colombian leftist guerillas. Before the election of President Chávez, Rangel wrote editorials for a known Caracas newspaper, and hosted a TV program in which many times he blasted members of the military. Many see Rangel as the agent that will take Chávez's political project to the heart of the Armed Force.<sup>124</sup>

Second, the civilian MOD is not assigned the responsibilities or the civilian staff that is necessary for civilian control of Armed Forces. There are no

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milicia como la Cubana" accessed online at [www.2001.com.ve/politica3.html](http://www.2001.com.ve/politica3.html) [ 3 Mar 2001]

123 Macky Arena, Globovisión Especial, Entrevista con Eliécer Hurtado Soucre, Ministro de la Defensa, Caracas, Venezuela, 31 March 2000 accessed online at <http://www.analitica.com/va/politica/fuentes/8619947.asp> [31 Mar 2000]

124 Gabriel Silva Lujan, "Otro Montesinos?" La Semana, Bogotá, Colombia, 6 February 2001, accessed online at: <http://www.lasemana.com.co> [6 Feb 2001]

provisions in the constitution or the proposed LOFAN for a civilian MOD to occupy the position. In an article written and published in June 1998 in the Venezuelan Military magazine, General Jacobo Yepez Daza states “ ...From a professional standpoint, if the Armed Forces were to have a civilian as MOD, they must have an organization, structure and functions different as if the MOD comes within the organization...”<sup>125</sup> The civilian Minister will not even have an office at the MOD, but somewhere else, he will take care mainly of the administrative matters of running the force, while the operational matters will be taken under the wing of the new Commander of the Armed Force. The role of civilian MOD within the military chain of command hence is reduced to that of an administrative secretary. For the civilian MOD to be an integral and effective voice in the formulation and implementation of defense policy, it must have a “...well funded ministry staffed with civilian and military experts...and a number of reforms are usually necessary to strengthen the role of the civilian ministry...”<sup>126</sup>

*b. Commander of the Armed Force*

At the same time that he appointed Rangel, President Chávez made another announcement, creating the figure of the Joint Commander of the Armed Force, a position that had been contemplated in the new LOFAN, but has not been approved yet. With this nomination, apparently, President Chávez was attempting to soften the blow to the military of removing the popular General Eliécer Hurtado as MOD. This new position will operate from the same office the former Minister had at the MOD, and be in charge of all operational and training requirements of the Armed Force. In addition, President

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125 Ibid

126 Jeanne K. Giraldo, draft civil-military relations paper, “The National Security framework: What do

Chávez announced that the Commander of the Armed Force would take over the role and functions of the Inspector General. President Chávez also said that he too would have an office within the MOD and, as the Commander in Chief, run some functions of the military.<sup>127</sup>

## **2. Use of the Military in Internal Security**

The proposed reorganization includes new roles for the Armed Force in the development of the nation and in guaranteeing the internal security. The National Guard, modeled after the Spanish *Guardia Nacional*, has traditionally been assigned to guard the borders, operate customs offices, and conduct counter narcotic operations. A subordinate of the MOD, it retains arrest authority and has been given an expanded role in internal policing under Chávez. In addition, those drafting the proposed Organic Law of the Armed Force (LOFAN) are currently debating the inclusion of a role for the military in internal police activities<sup>128</sup>. This would represent a dangerous militarization of internal security. Chávez has already used the military in internal security roles – troops conduct internal security mission in the Theater of Operations on the border with Colombia and “Cazador” battalions now face charges of human rights violations after their use during flooding in Vargas state. The proposed law would represent a dangerous institutionalization and widening of this trend.

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countries legislate”, Naval Post-graduate School, March 2001

127 Javier Ignacio Mayorca, “Chavez tambien tendra una oficina en Fuerte Tiuna”, El Nacional, 1 March 2001, accessed online at: <http://www.el-nacional.com/eln01032001/pd1s2.htm> [1 Mar 2001]

128 Enrique Prieto Silva, “Hacia dónde van nuestras fuerzas armadas?” Venezuela Analitica, Caracas, Venezuela, 21 July 2000

## E. OVERALL ASSESSMENT

The following table summarizes the overall level of military prerogatives in Venezuela (high, medium, or low) and shows whether they have increased under Chávez (a “+” indicates an increase, 0 no change, and “—“ a decrease).

Prerogative	Venezuela prior to Chávez	Venezuela under Chávez	Change/Level
1. Constitutionally sanctioned independent role of the military in political system:	Constitution defines the role of the Armed forces, and its use in internal security. Constitution defines role of AF as “apolitical and non-deliberative”	Constitution defines the role of the Armed forces and its use in internal security. Constitution takes away “apolitical and non-deliberative” role	+ <b>MEDIUM</b>
2. Military relationship to chief executive:	Constitution defines the President as the Commander-in-Chief of the Armed Forces.	Constitution defines the President as the Commander-in-Chief of the Armed Forces. Military nature of president calls into question extent of civilian control.	0 <b>HIGH</b>
3. Coordination of defense sector:	De jure and de facto, done by service chiefs separately, with very weak or non-existent supervision by Joint General Staff and with weak comprehensive planning by chief executive	De jure and de facto done by new positions created. Active planning and involvement by chief executive	- <b>LOW</b>
4. Active-duty participation in the Cabinet:	Only MOD active duty officer as minister in cabinet. Some retired military officers serve as ministers in cabinet.	3 of 9 active-duty as ministers in cabinet. 3 of 9 active duty serve as deputy ministers in cabinet. 4 retired military officers serve as ministers in cabinet	+ <b>HIGH</b>

5. Role of legislature:	Legislature approves or disapproves executive's budget. Legislative supervision very ad hoc but held hearings on defense matters. Legislature has oversight over military promotion lists.	Constitution allows for the legislature to discuss defense matters, but oversight over military promotion lists is taken away. No involvement by legislature on defense matters	- <b>HIGH</b>
6. Role of senior career civil servants or civilian political appointees:	Active duty military officials fill almost all top defense staff roles. Civilians are low-level employees of the military services.	Civilian MOD recently appointed by President. All other positions at MOD filled by active duty officers. Civilians are low-level employees of the military services.	- <b>MEDIUM</b>
7. Role in Intelligence:	Peak intelligence agencies controlled by active duty, general level officers who combine intelligence gathering and operations functions. DIM reorganized in numerous occasions. DISIP active role, as state intelligence apparatus. No independent review boards	Intelligence apparatus controlled by active duty military officers or retired military officers. No oversight by civilians. DISIP continues its role as state intelligence apparatus. No independent reviews boards for intelligence organisms.	0 <b>HIGH</b>
8. Role in Police:	Police under control of non-military ministry or local officials. Active duty military officers not allowed serving in police.	Police under Interior and Justice Minister (MIJ) and local mayors. Proposed LOFAN (Organic law of AF) expands role of National Guard and Regular Military to take some police duties.	+ <b>HIGH</b>

9. Role in military promotions:	Military has played a major role in setting the boundaries for promotion patterns. Legislature oversees whom can be chosen from promotions lists forwarded by each service. President ultimate promotion authority.	New Constitution holds promotion authority exclusively at the executive (president) level, no legislative oversight.	<b>+</b> <b>MEDIUM</b>
10. Role in state enterprises:	All state enterprises controlled by civilians. Occasionally retired military officers control key state enterprises.	All state enterprises- (oil, aluminum, energy and telecommunications) controlled by active duty general officers.	<b>+</b> <b>HIGH</b>
11. Role in legal system:	Military have legal jurisdiction outside of narrowly defined internal offenses against military discipline. In all areas outside this domain, civilians and military are subject to military justice code.	Military have legal jurisdiction outside of narrowly defined internal offenses against military discipline. In all areas outside this domain, civilians and military are subject to military justice code.	<b>0</b> <b>HIGH</b>

Table 2. Table of Military Prerogatives in Venezuela

Totaling the evaluation of these prerogatives, it can be seen that military prerogatives in Venezuela have increased under Hugo Chávez Frias and are dangerously high.

#### F. CONCLUSION

Chávez's policies favoring the use of the military in a political role have alarmed not only the Venezuelans themselves, but also neighboring countries. Some of President Chávez's actions have led to questions about the future of democracy in Venezuela. What is the nature of his project? Is it a civil-military project or a military-civil project? Here,

unlike in math, the order of the factors does alter the product. Is Venezuela truly “navigating the same sea of happiness as Cuba”<sup>129</sup> as President Chávez declared in Havana in November 1999? He counts Cuba and Fidel Castro as his most important international ally and the Cuban Revolution an example to emulate<sup>130</sup>. Many observers believe he is concentrating too much power in his own hands, creating in the military a very powerful political party and moving Venezuela dangerously close to a dictatorship. Others believe that he is conducting a “slow motion” or “democratic” coup<sup>131</sup> to accomplish what he failed to do in 1992.

Venezuela’s apparent militarization concerns its regional neighbors, especially Colombia. Colombia has serious problems of its own fighting insurgency and drug trafficking. They fear that a military state in neighboring Venezuela can be dangerous because of its nationalistic roots, which can be used for political purposes on controversial border disputes.

Chávez acts and speaks in a military fashion and often wears his uniform at public events and acts.<sup>132</sup> He has increased the role of the military in the running of government and in solving social problems.<sup>133</sup> One common view of the state of militarization in

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<sup>129</sup> Entrevista exclusiva al Presidente de Venezuela, Hugo Chávez Frias, “Tengo un reto en la Cumbre Iberoamericana de la Havana porque ahí se oirá la voz del pueblo Venezolano”, Marta Rojas, Diario Granma, La Havana, Cuba, November 1999 accessed online at <http://granma.cu/documento/espanol/044-e.html> [27 Nov 2000]

<sup>130</sup> Ibid

<sup>131</sup> Maxwell A. Cameron, Associate Professor, University of British Columbia, Canada “Elections in a hybrid regime: Civil-Military Relations and Caesarism in Peru” prepared for delivery at the 2000 meeting of the Latin American Studies Association (LASA), Miami, Florida, March 16-18, 2000

<sup>132</sup> Carlos A Romero “Chávez un año en el poder”, Venezuela Analitica, 11 February 2000, accessed online at <http://www.analitica.com/va/politica.asp> [2 Feb 2000]

<sup>133</sup> Ibid

Venezuela is that Chávez is completing a political agenda, which has as the most important component the fusion of Armed Forces, Citizens (Pueblo) and Leader (Caudillo)<sup>134</sup>. The other view is that once he completes his political project and begins paying more attention to other problems (e.g., the economy), he will disengage somewhat from his militaristic views and pay more attention to subject matter experts regardless of whether they are military or not.

President Chávez has not technically violated the military subordination to civilian control that is necessary for democratic control; however, his self-description as the “first soldier” is problematic. Additionally, relying on the military to accomplish his political objectives does endanger democracy. The expansion of military roles into spheres usually resolved for civilians is contrary to the principles of liberal democracy.

In summary, up until now President Chávez indeed has changed the political landscape of Venezuela. He has given the military a much greater and visible role in civic projects and in the running of government. If President Chávez’s programs fail, or as in the case of the civic action programs (Bolívar 2000) stall, it reflects badly on the military as an institution. This failure is linked tightly to its efficiency to undertake even its primary role, which is the defense of the country. Being scrutinized in the political arena tarnishes the once clean and incorruptible military institution. The divisions created by politicizing the military are dangerous for democracy in the long run.

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<sup>134</sup> Ceresole, Norberto “Caudillo, ejercito, pueblo. El Modelo Venezolano o la postdemocracia”, Caracas, Venezuela, February 1999

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## VI. CONCLUSION

Until recently, Venezuela was considered one of the longest lasting consolidated democracies in Latin America. Since 1958 it had respected most democratic institutions and had free and fair elections every five years. Transitions from one government to the next were always transparent, peaceful and successful. Two very strong political parties, AD and COPEI, completely dominated the political space and culture in Venezuela by creating strong roots in society and obtaining legitimacy within the population in periodic elections. There was steady inter-party competition and stable political rules and structures. However, the parties' inability to provide basic needs and services and economic crisis began a breakdown of the system. The most visible examples of this were the urban riots, known as the "Caracazo," in February 1989, and the coup attempts by members of one of the most trusted institutions, the military. The collapse of the two-party system became evident at the polls starting with the elections of Rafael Caldera to the presidency in 1994. The crisis of the parties was so great that, by 1998, the most vociferous critic of the traditional parties, who had plotted against them in the 1992 coup attempts, was elected president.

The election of Hugo Chávez to the presidency exacerbated the fears of many observers who were already concerned about the future of democracy in Venezuela. Some of President Chávez's words and actions have led many to believe that he is a new Latin American populist who will become more and more authoritarian with time. Others argue that Chávez is a true democrat; although his model of participative democracy

model has not yet been able to overcome 40 years of partyarchy, it will show results in time. This chapter will argue that President Chávez is closer to the former than the latter. It shows that Chávez's behavior not only fails to conform to a model of liberal democracy but that it betrays his own vision of a participative democracy. It concludes by describing U.S. policy toward Venezuela and offering policy recommendations.

#### **A. MODELS OF DEMOCRACY**

This thesis began by discussing four different models of democracy -- electoral, liberal, delegative, and substantive -- in order to understand the existing academic and policy debates and examine President Chávez's vision of participative democracy. It began by discussing two minimalist notions of democracy. Electoral democracies require only that free and fair elections be held periodically for a polity to qualify as democratic; only a minimal level of civil liberties and opposition are necessary for elections to be considered free and fair. Delegative democracy is a version of electoral democracy that emphasizes how elections give the executive the mandate to solve social and economic problems, as he deems best, without being constrained by other branches of government, opposition resistance or interest groups. Liberal democracies represent a more expansive procedural notion of democracy, calling for respect to civil liberties and human rights, checks and balances, military subordination to civilian rule, the rule of law, and a pluralistic political and civil society. A substantive democracy stresses social and economic rights, almost always at the expense of civil liberties, and calls for popular participation through state-organized channels

President Chávez loathes representative democracy. He truly believes this model caused all the problems Venezuela has now. In Chávez's model of participative

democracy, like in O'Donnell's "delegative democracy," horizontal accountability is sacrificed to vertical accountability. Chávez often states that the people gave him a legitimate order when they elected him in December 1998, and he treats this "order" or mandate as a military type command, to be executed disregarding other democratic institutions, public opinion, or any opposition. He is determined to eradicate the "corrupt elites" from all institutions of government and give a new voice to the people in governing. As an example after winning the presidential elections he stated, "Let us launch a revolutionary new model for Venezuela".<sup>135</sup> In his participative model he mixes some elements of various other models of democracies. He created two more "popular" branches of government, the moral and electoral, which would demand accountability from the other branches and the executive as well. Additionally, the constitution allows the use of a recall to evaluate his performance.

The following sections summarize the evidence that shows the challenge that Chávez's vision of democracy and his actions represent to liberal democracy. It also shows how, in practice, Chavez's behavior undermines his own vision of participative democracy.

## **B. ELECTIONS AND CIVIL LIBERTIES**

In this area President Chávez has respected the minimal conditions that must exist in an electoral model of democracy. In keeping with his model of participative democracy he introduced mechanisms to allow for more popular participation in decision-making. Under President Chávez, there have been three elections and three

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<sup>135</sup> "Chávez promises revolutionary change" Tuesday, 1 August 2000, BBC news, accessed online at [http://news.bbc.co.uk/hi/english/world/americas/newsid\\_860000/860623.stm](http://news.bbc.co.uk/hi/english/world/americas/newsid_860000/860623.stm) [26 Feb 2001]

referenda. Although there have been problems, some of them serious, all of the elections have been conducted successfully. One of the most serious criticisms Chávez has faced is that the members of the electoral commission, which enforces electoral laws, are all Chávez loyalists selected by the MVR-dominated legislature. The departure from the Venezuelan tradition (and international standard) of a neutral or a politically representative board troubles many.

In the area of human rights, many non-governmental organizations (NGOs) decry that human rights violations in Venezuela have not gotten better since President Chávez took charge, and in some instances they have increased. However, there is no evidence that the increase is the result of a systematic government policy, and there have been improvements in some areas, especially the language included in the constitution to address human rights.

With respect to civil liberties, President Chávez's actions violate liberal and participative models of democracy. Although the government and the constitution permit freedom of speech and press and no censorship exist, the excessive amount of government intimidation, especially the constant attacks and threats by the president to the media, is extremely worrisome. Chávez's practice of calling anyone who opposes or criticizes him a "traitor", "enemy" or "corrupt oligarch" is not conducive to the give and take of democracy. The truthful information clause in the constitution is troublesome and could very easily be used to censor the media.

The constitution permits the freedom of assembly and association. However, a TSJ ruling severely restricting the definition of civil society represents a clear violation of

the independence and autonomy of civil society organizations. The referendum convoked by the president to attempt to democratize labor unions can be seen as a governmental attempt to control labor unions, under the leadership of their own labor force.

### **C. CHECKS AND BALANCES**

In this area again President Chávez's actions violate the model of liberal democracy by controlling all the branches of the government through appointed loyalists. When these loyalists have acted against his wishes, he has either overturned their decisions personally (e.g., in the writing of the Constitution) or used other branches of government against them (e.g., the TSJ undermining the Attorney General's investigation into corruption). On other occasions, members of branches who disagree with the president realize that, given the centralization of power in the figure of the president, resistance is futile. Instead of attempting to act independently and check the president, they resign in protest over his policies (e.g., the original Supreme Court, the bicameral legislature, and members of the second CNE).

All political and democratic institutions continue to exist although there have been considerable changes. The unicameral National Assembly (AN) replaced the bicameral Congress. The Supreme Justice dissolved itself, when the ANC, originally mandated to only write the constitution, began to legislate and declared a judicial emergency. Eventually, the Supreme Judicial Tribunal (TSJ), made up with the alternate magistrates replaced it.

The two branches created to conform to Chávez's participative notion of democracy also show evidence of not being able to act autonomously. The moral branch of government acted independently in investigating alleged corruption and was seriously

criticized by the president and his followers for lack of loyalty. When the National Assembly was finally installed, the new members of the moral branch were selected and all are members of the official party. The National Assembly has appointed all the CNE members. Although they have conducted the electoral processes successfully, some of their actions and decisions have been questioned because of their loyalty to Chavez's party.

Finally, the constitution centralizes much of the power in the figure of the president, which is troublesome. It provides the president the power to declare a state of exemption and rule by the decree, even to dissolve the National Assembly. Chávez has promised to use his decree powers to launch new radical and ambitious economic and social programs. In his words his "peaceful revolution" is succeeding. "Every little grain of sand goes toward building the mountain. There are new roads, and school for the kids, and telephone lines."<sup>136</sup>

#### **D. CIVIL-MILITARY RELATIONS**

The political and social use of the armed forces violates principles of liberal democracy. Chávez often states that there must exist a fusion between the military and the people, which is essential for his participative model. The Armed Forces continue to be subordinated to the civilian executive, but whether this constitutes civilian control is questionable since Chávez considers himself a soldier. President Chávez has increased the role of the Armed Forces in society, the government and politics. The Armed Forces participate in massive civil-military projects (Projecto Bolívar 2000 and 2001). An active

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<sup>136</sup> "Chávez: End 'Tyranny of the Small Elite', Washington Post, Sunday October 15, 2000, accessed online at <http://www.washingtonpost.com/wp-dyn/articles/A7305-2000Oct14.html> [20 Oct 2000]

duty military officer runs almost every ministry in the government, as well as the most important state industries (oil, aluminum, and electricity). This militarization of the government has set off alarms, as many critics state the dangers of involving military personnel in political tasks. The new constitution increases the political role of the Armed Forces by allowing them the right to vote, and taking away the apolitical and non-deliberative clauses.

#### **E. ECONOMIC PERFORMANCE**

A central element of substantive democracy and delegative democracy is the notion that the “ends justify the means.” Democracy is served if the president helps “the people” by solving an economic crisis, a terrorist threat, or corruption, regardless of the methods employed. Like Carlos Menem in Argentina and Alberto Fujimori in Peru, Chávez was elected because of his promise to solve his country’s economic problems and to eradicate corruption. In contrast to the other two presidents, who produced results quickly, Chávez has not. No one accused of corruption is in prison, and allegations of corruption continue in this government. Many criticize Chávez for spending too much time on his political project and doing nothing to solve Venezuela’s deep recession, all of this despite receiving the highest revenue from the price of oil being the highest in over twenty years. Unemployment has risen to almost an uncontrollable rate, many private sector firms have shutdown, and international firms have left the country or stayed away altogether. The investment country-risk factor in Venezuela is extremely high. The government has managed to contain inflation but many say this is because people are just not buying goods.

Despite an anti “savage neoliberal” discourse Chávez’s macroeconomic policies have been consistent with free-market policies. Elliot Abrams, former Under Secretary for Western Hemisphere Affairs notes, “the consensus in Washington is that Chávez’s economic policies are highly populist and are not going to create what the people of Venezuela need and want, and us too, which is growth and employment, this is sad.”<sup>137</sup> Ambassador Hrinak states, “Chávez’s rhetoric hurts international investments greatly, in particular from U.S. companies willing to invest in Venezuela. You pay a price from all the rhetoric.”<sup>138</sup> President Chávez has taken an active role in OPEC, visiting each member country and also hosting the OPEC summit in Caracas. He presses hard to maintain the price of oil high.

The following table represents how President Chavez’s vision matches with the evidence presented in this thesis and how, in practice, participative democracy more closely resembles a delegative type of democracy.

Elements of Democracy	Chavez’s Vision of Participative Democracy”	Chavez’s Participative Democracy in practice	Model most closely related (Delegative Democracy)
Elections	+	+	+
Civil Liberties	~	~	~
Accountability -Checks and Balances -Citizen	- + -	- - -	- - -

137 Carlos Subero, “EEUU evitara que Chávez “los culpe de problemas”, El Universal, Caracas, Venezuela, 25 January 2001, accessed online at: <http://www.archivo.eluniversal.com/2001/01/25/25110BB.shtml> [26 Jan 2001]

138 Interview with US Ambassador to Venezuela Donna Hrinak by Fabiola Zerpa, “No veo por qué EEUU tiene que aparecer como enemigo y opositor de Venezuela”, El Nacional, Caracas, Venezuela, 11 March 2001, accessed online at: <http://www.el-nacional.com/eln11032001/pa6s1.htm> [11 Mar 2001]

Elements of Democracy	Chavez's Vision of "Participative Democracy"	Chavez's Participative Democracy in practice	Model most closely related (Delegative Democracy)
participation			
Civilian control of the military and military roles limited to defense	+/- *	+/- *	~
Stress on outcomes (Ends justifies means)	+	+	+

Table 3. Democratic Measures

#### E. U.S. POLICY TOWARDS CHAVEZ

In its National Security Strategy, the United States has an extensive agenda for the promotion of democracy in the region. It seeks not only to promote the holding of free and fair elections, but also to strengthen democratic institutions and practices, such as a strong judiciary, respect for human rights, and military subordination to civilian rule. These democratic measures can be promoted either through diplomatic means or through democracy assistance programs.

Despite this broad agenda, the United States' position has typically been and continues to be one of electoralism, demanding respect for free and fair elections as the most important litmus test for democracy in a country. When he was appointed by President George W. Bush as the Western Hemisphere Adviser in the National Security

Council (NSC), former U.S. Ambassador to Venezuela, John F. Maisto stated, "...at the end of the day the Venezuela people democratically elected him [Chávez] to govern the country...."<sup>139</sup>

Similarly, Ambassador Thomas Pickering, Under Secretary for Political Affairs, on a visit to Caracas stated, "we support the processes in which the government, the National Constituent Assembly and now the National Assembly have allowed the people of Venezuela to participate through elections in these political changes. We recognize that Venezuela is living a crucial time in their history and we wish the best for the culmination of the process."<sup>140</sup> He also stated the "we need to judge President Chávez for what he does and not what he says...."<sup>141</sup> In another interview former Under Secretary for Western Hemisphere Affairs stated, " In Washington there is no clear answer as to where President Chávez's project is heading...."<sup>142</sup>

The harshest criticism to Chávez's actions have come from Ambassador Peter Romero, Under Secretary of State for Western Hemisphere Affairs, who in an interview stated, "...we do not see a direction in the government from Chávez, only plebiscites, referendums and more elections, they keep telling us to wait for the process but we

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139 John F. Maisto as cited in "around the beltway", the Washington Times, Washington DC, 25 January 2001, accessed online at: <http://www.washingtontimes.com> [25 Jan 2001]

140 Ambassador Thomas Pickering, Under Secretary of State for Political Affairs, as cited in María Teresa Romero "Estados Unidos frente a la administración Chávez", Venezuela Analítica, Caracas, Venezuela, 14 April 2000 accessed online at: <http://www.analitica.com/va/internacionales/opinion/1165174.asp> [21 Apr 2000]

141 Pickering as cited in an interview to US Ambassador to Venezuela Donna Hrinak by Fabiola Zerpa, "No veo por qué EEUU tiene que aparecer como enemigo y opositor de Venezuela", El Nacional, Caracas, Venezuela, 11 March 2001, accessed online at: <http://www.el-nacional.com/eln11032001/pa6s1.htm> [11 Mar 2001]

142 Carlos Subero, "EEUU evitará que Chávez "los culpe de problemas", El Universal, Caracas, Venezuela, 25 January 2001, accessed online at:

‘gringos’ (Americans) are not known to be patient....”<sup>143</sup> This created tensions in the country’s bilateral relations, when news reports appeared in the U.S. media about Chávez’s involvement in insurgency and revolutionary movements in Ecuador and Bolivia, again citing Ambassadors Romero’s statements, President Chávez called Romero ‘Pinocchio’ and said that “it is saddening that officials that blatantly lie are allowed to serve in the government of the United States”.<sup>144</sup>

Today under a new administration, the U.S. is paying closer attention not only to Chávez’s actions but also to his words. U.S. Ambassador to Venezuela, Donna Hrinak states,

I do not concur with th[e] opinion [of Ambassador Pickering to judge Chávez “for what he does and not what he says”]. The words stated by a president have some weight. Before, Chávez was in a constant electoral campaign, and when someone is a candidate many things can be excused. Ours, too, but when then get elected to the presidency, well... we have a saying ‘where you stand is where you sit, which means that the stand a person takes depends on the position he occupies. People react to what the president says. He is the ultimate leader of the country; we need to believe what he says.<sup>145</sup>

Many other political actors have indicated that they will pay careful attention to Chávez’s actions. Congressman Lincoln Diaz Ballard states, “What the position of the

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<http://www.archivo.eluniversal.com/2001/01/25/25110BB.shtml> [3 Mar 2001]

143 Ambassador Peter Romero, Under Secretary of State for Western Hemisphere Affairs, as cited in María Teresa Romero “Estados Unidos frente a la administración Chávez”, Venezuela Analítica, Caracas, Venezuela, 14 April 2000 accessed online at: <http://www.analitica.com/va/internacionales/opinion/1165174.asp> [21 Apr 2000]

144 Gioconda Soto, “La pugnacidad opaco diálogo entre Caracas y Washington”, El Nacional, Caracas, Venezuela, 27 December 2000 accessed online at: <http://www.el0-nacional.com/eln27122000/pa2s1.htm> [27 Dec 2000]

145 Interview with US Ambassador to Venezuela Donna Hrinak by Fabiola Zerpa, “No veo por qué EEUU tiene que aparecer como enemigo y opositor de Venezuela”, El Nacional, Caracas, Venezuela, 11 March 2001, accessed online at: <http://www.el-nacional.com/eln11032001/pa6s1.htm> [11 Mar 2001]

U.S. government will be depends on the actions of Chávez.... His government has legitimacy since he cleanly won the elections and later conducted a constitutional reform process which was approved by a large majority, but that legitimacy is lost if democracy is not exercised.”<sup>146</sup>

For the most part the U.S. government’s position has been a very patient cordial one of “wait and see.” President Chávez is a popular and charismatic leader, who takes advantage of growing anti-American sentiment popular in Latin America. The U.S. does not want to push him to become the second Fidel Castro or increase his levels of support by providing fuel for his anti-American appeals.<sup>147</sup> The political, economic and security interests of the United States in the entire region far outweigh the concerns with any challenge President Chavez presents to democracy. The U.S. has had to limit its promotion of democracy to free and fair elections, and even this is hard to do at times. There is the regional security threat with the conflict in Colombia and the narcotic threat. Additionally, Venezuela has continued to be a trusted and reliable oil exporter to the U.S. and one of the biggest trading partners in the region.

President Chavez and his government have continuously sent mixed signals as to the state of bilateral relations by signaling their willingness to act contrary to U.S. interests. Chávez continues to venerate Fidel Castro and the Cuban revolution, befriends Iraq’s Saddam Hussein, Libya’s Muamar al-Quaddafi and other tyrants, fails to cooperate in the war against drugs by denying U.S. planes to over fly Venezuela, and at every

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<sup>146</sup> Marco Tilio Paez, “Chávez esta en la mira de EEUU”, El Universal, Caracas, Venezuela, 31 January 2001, accessed online at: <http://www.archivo.eluniversal.com/2001/01/31/31110AA.shtml> [3 Mar 2001]

<sup>147</sup> Maria Teresa Romero “Estados Unidos frente a la administración Chávez”, Venezuela Analítica, Caracas, Venezuela, 14 April 2000 accessed online at:

opportunity speaks about creating another geo-political axis to compete against the unipolar U.S. world. He continues to criticize the involvement of the U.S. in Colombia, in particular the military assistance in Plan Colombia, and he has established numerous contacts with Colombian guerrillas. Colombian President Andres Pastrana states, "I'm asking Chávez, please stay in your yard and we'll manage our own problems. We don't talk about internal problems in Venezuela, because we don't want them to intervene in domestic issues in Colombia. If he contacts guerrillas, we want him to tell us first."<sup>148</sup>

In sum, the United States has taken a wait and see attitude for two reasons. First is the inherent difficulty of promoting democracy, especially in a country with a democratically elected leader promoting a different vision of democracy. Second, U.S. policy makers are concerned with promoting other economic and security interests in the region. The following section will address the usefulness of different measures for promoting democracy in Venezuela and suggest that standing up to Chávez and his anti-democratic attitudes can serve the interest of regional security and political stability.

#### **F. RECOMMENDATIONS FOR U.S. POLICY**

The U.S. has employed two major policy tools for promoting democracy in the last two decades: diplomatic measures that largely focus on ensuring free and fair elections and preventing coups and democracy assistance programs that seek to strengthen democratic institutions. The following sections discuss the potential usefulness of these tools in promoting democracy in Chavez's Venezuela.

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<http://www.analitica.com/va/internacionales/opinion/1165174.asp> [25 May 2000]

148 Nora Boustany, "Venezuela's Aspiring innovator", Diplomatic Dispatches, The Washington Post, 24 September 1999, accessed online at: <http://washingtonpost.com/wp-dyn/world/columns/diplomaticdispatches/A37599-1999Sep24> [23 Feb 2001]

## **1.      Diplomatic tools to Promote Democracy**

Recent experiences have shown that the United States cannot act unilaterally to prevent any serious attack to democracy. The international community will not support the United States unless total anarchy reigns in the country or there has been a coup. The case of Alberto Fujimori in Peru demonstrates this: The OAS sent an electoral observation mission to monitor the elections. The mission determined that President Fujimori had used fraudulent means to get elected for a third term. The United States attempted to stop the fraudulent election by asking the members of the OAS to speak out against them. OAS member nations went against their own observation mission to oppose the strong actions advocated by the U.S. The reaction by the other OAS members was lukewarm to the U.S. attempts to act against this blatant violation of democracy. Member nations “haunted by memories of past U.S. intrusions in their domestic affairs, have chosen non-intervention over a strong stance for democracy,”<sup>149</sup> and instead signed on to send a high-level commission to “study” the situation in Peru. The United States took the lead to denounce and declare the Peruvian elections invalid but neither the OAS electoral commission nor the U.S. received support.

Although unable to rely on other Latin American countries to encourage democracy in Venezuela, there are still a number of diplomatic steps the U.S. can take to promote democracy there and in the region. The U.S. should:

- Maintain pressure for actions against human rights violations, by presenting evidence in yearly reports, and actively supporting NGOs, which fight for these causes

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<sup>149</sup> Antony Faiola, “Latin Nation take lenient Attitude toward Fujimori” Washington Post, 8 June 2000, accessed online at: <http://www.washingtonpost.com/world/americas/A15942-2000Jun7.html> [8June 2000]

- Continue to stand firm and repudiate President Chavez's dealings and friendships with tyrants (e.g., Castro, Saddam) who reject democracy
- Support the Andean Initiative and Andean Trade Preference Act (ATPA) as a contribution to democratic stability in the region
- Continue to stand firm on U.S. interests in the Andean region, but insuring that U.S. actions do not provoke President Chavez to become a second Castro
- Reassure the rest of the Andean countries that the U.S. will not tolerate President Chavez's support for anti-democratic movements within neighboring countries
- Insist on Venezuela's support for the regional counter drug fight, by allowing U.S. over flights in pursuit of drug movements

## 2. Democracy Assistance Programs and Recommendations

Since the mid-1980s, democracy assistance programs have become a significant element of United States efforts to promote democracy. The U.S. accomplishes this goal primarily with programs conducted by the U.S. Agency for International Development (USAID). There are also democracy assistance programs at the Department of State, The Department of Defense, The National Endowment for Democracy (NED), and the National Democratic Institute (NDI) among others. The United States is not alone in this endeavor. Other countries also have their programs and international institutions to foster democracy.

In Venezuela, the United States Information System (USIS) through the cultural section of the U.S. Embassy in Caracas manages programs for the promotion of democracy. Several have been extremely positive and must continue. For example, the CIVITAS Venezuela program created a democracy education network with the participation of many civil society organizations.<sup>150</sup> There is also a student and professor

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<sup>150</sup> Ambassador Thomas Pickering, Under Secretary of State for Political Affairs, as cited in María Teresa Romero "Estados Unidos frente a la administración Chávez", Venezuela Analítica, Caracas, Venezuela, 14

exchange program between the Central University of Venezuela (UCV) and St. John Fisher College, which included at one point the creation of a Center for the Study of Democracy and Human Rights. NDI has been assisting Venezuelan civic groups with electoral reform initiatives and observation. The civic groups *Escuela De Vecinos de Venezuela* (School of Neighbors of Venezuela- EVV) and *Queremos Elegir* continue to run multifaceted civic action and monitoring programs to increase citizen participation in electoral reforms. These two action groups have been constant watchdogs in all of the electoral processes that have taken place since Chávez came to power, as well as the constitutional reform processes<sup>151</sup>. The Department of Defense runs similar programs through military to military exchanges and by sponsoring military officers to attend courses on civil-military relations at U.S. institutions. All of this democracy assistance programs have continued under President Chávez's government.

The U.S. should continue to support the programs for democracy already in place and continue to organize and educate civil society to prevent attacks to democracy. Specifically, the U.S. should:

- Continue to support international delegations of election observers, to ensure election processes are fair and transparent
- Continue to support programs to reform the judiciary and the rule of law, to ensure equal justice and respect to civil liberties
- Continue to strengthen civil society, specifically those organizations that bolster democracy, and educate citizens about democracy
- Aid political parties to reform themselves to become a viable pluralistic and strong opposition

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April 2000 accessed online at: <http://www.analitica.com/va/internacionales/opinion/1165174.asp> [22 Apr 2000]

151 NDI activities in Latin America and the Caribbean- Venezuela, National Democratic Institute, accessed online at: <http://www.ndi.org/ndi/worldwide/latinamerica/venezuela/venezuela.htm>, [23 January 2001]

This last step is particularly important. So far President Chávez has been extremely effective at taking advantage of the crisis of the traditional party system and preventing the growth of an institutionalized opposition. The parties need to be rebuilt and strengthened in order to present realistic solutions to the problems faced by the people. They must regain the trust of the population. This is the most important step for promoting democracy in the medium to long run.

#### **G. ONE FINAL WORD**

There is no doubt in anybody's mind that change was needed in Venezuela. President Chávez took advantage of this and got elected. He promised the people great changes in politics, social justice, and corruption. In two years the only real change he has managed is to change the entire landscape of Venezuela's politics. The problem with his political project, which resembles delegative democracy much more than participative democracy, is that it has not produced results. Unemployment, economic growth and cost of living, corruption and crime are the areas that affect citizens more, but which have not been improved. The other problem with Chávez's political-participative democracy model so far, is that it is based on a weak and fragile government. His legitimacy is the charisma of the leader and, unless promises are fulfilled, charisma and popularity do not last forever. President Chávez has surrounded himself with a small group of advisors, some of them military, but the circle is not deep, and it centers on the decisions of Chávez himself.

The growing number of social and economic problems which have not been attended to, the inevitable fall of oil prices and the revenue that it provides, weak government with weak institutions, the continued discomfort among the military, and the

government's dwindling popularity lead me to believe that Venezuela is at the cross roads. There are several paths Venezuela might follow. One is that President Chávez declares a state of exemption and becomes repressive and authoritarian when he is faced with deeper problems and waning popularity. Second is the democratic solution, in which opposition to Chavez is expressed at the next election or referendum. Third, the military grows increasingly disenchanted with President Chavez's support for Marxist insurgents in Colombia and his politicization of the armed forces and conducts a coup against his regime. The second path is the only one consistent with the United States' promotion of democracy in the region.

The United States must continue its "wait and see" attitude, remaining alert to the threats to democracy posed by the actions and words of President Chávez, and supporting aid programs to bolster democracy in Venezuela. The only way the democratic solution referred to above will work is with a strong and capable opposition. For this solution, the United States and other countries must help the political parties strengthen themselves so they can express growing popular discontent and take advantage of the gaps left by President Chávez's government. This is the only way democracy will triumph in Venezuela; otherwise the U.S. could see a return to authoritarian rule in Latin America.

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